

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
FIRST DIVISION**

ELMER M. MENDOZA,
Petitioner,

-versus-

**G.R. No. 155421
July 7, 2004**

RURAL BANK OF LUCBAN,
Respondent.

X-----X

DECISION

PANGANIBAN, J.:

The law protects both the welfare of employees and the prerogatives of management. Courts will not interfere with business judgments of employers, provided they do not violate the law, collective bargaining agreements, and general principles of fair play and justice. The transfer of personnel from one area of operation to another is inherently a managerial prerogative that shall be upheld if exercised in good faith -- for the purpose of advancing business interests, not of defeating or circumventing the rights of employees.

The Case

The Court applies these principles in resolving the instant Petition for Review^[1] under Rule 45 of the Rules of Court, assailing the June 14,

2002 Decision^[2] and September 25, 2002 Resolution^[3] of the Court of Appeals (CA) in CA-GR SP No. 68030. The assailed Decision disposed as follows:

“WHEREFORE, the petition for certiorari is hereby DISMISSED for lack of merit.”^[4]

The challenged Resolution denied petitioner’s Motion for Reconsideration.

The Facts

On April 25, 1999, the Board of Directors of the Rural Bank of Lucban, Inc., issued Board Resolution Nos. 99-52 and 99-53, which read:

“Board Res. No. 99-52

“RESOLVED AS IT IS HEREBY RESOLVED’ that in line with the policy of the bank to familiarize bank employees with the various phases of bank operations and further strengthen the existing internal control system[,] all officers and employees are subject to reshuffle of assignments. Moreover, this resolution does not preclude the transfer of assignment of bank officers and employees from the branch office to the head office and vice-versa.”

“Board Res. No. 95-53

“Pursuant to Resolution No. 99-52, the following branch employees are hereby reshuffled to their new assignments without changes in their compensation and other benefits.

NAME OF EMPLOYEES	PRESENT ASSIGNMENT	NEW ASSIGNMENT
JOYCE V. ZETA	Bank Teller	C/A Teller
CLODUALDO ZAGALA	C/A Clerk	Actg. Appraiser
ELMER L. MENDOZA	Appraiser	Clerk-Meralco

Collection

CHONA R. MENDOZA Clerk-Meralco Bank Teller” [5]
Collection

In a letter dated April 30, 1999, Alejo B. Daya, the bank’s board chairman, directed Briccio V. Cada, the manager of the bank’s Tayabas branch, to implement the reshuffle.[6] The new assignments were to “be effective on May 1, 1999 without changes in salary, allowances, and other benefits received by the aforementioned employees.”[7]

On May 3, 1999, in an undated letter addressed to Daya, Petitioner Elmer Mendoza expressed his opinion on the reshuffle, as follows:

“RE: The recent reshuffle of employees as per

Board Resolution dated April 25, 1999

“Dear Sir:

“This is in connection with the aforementioned subject matter and which the undersigned received on April 25, 1999.

“Needless to state, the reshuffling of the undersigned from the present position as Appraiser to Clerk-Meralco Collection is deemed to be a demotion without any legal basis. Before this action on your part, the undersigned has been besieged by intrigues due to the malicious machination of a certain public official who is bruted to be your good friend. These malicious insinuations were baseless and despite the fact that I have been on my job as Appraiser for the past six (6) years in good standing and never involved in any anomalous conduct, my being reshuffled to Clerk-Meralco Collection is a blatant harassment on your part as a prelude to my termination in due time. This will constitute an unfair labor practice.

“Meanwhile, may I beseech your good office that I may remain in my position as Appraiser until the reason for my being reshuffled is made clear.

“Your kind consideration on this request will be highly appreciated.”^[8]

On May 10, 1999, Daya replied:

“Dear Mr. Mendoza,

“Anent your undated letter expressing your resentment/comments on the recent management’s decision to reshuffle the duties of bank employees, please be informed that it was never the intention (of management) to downgrade your position in the bank considering that your due compensation as Bank Appraiser is maintained and no future reduction was intended.

“Aside from giving bank employees a wider experience in various banking operations, the reshuffle will also afford management an effective tool in providing the bank a sound internal control system/check and balance and a basis in evaluating the performance of each employee. A continuing bankwide reshuffle of employees shall be made at the discretion of management which may include bank officers, if necessary as expressed in Board Resolution No. 99-53, dated April 25, 1999. Management merely shifted the duties of employees, their position title [may be] retained if requested formally.

“Being a standard procedure in maintaining an effective internal control system recommended by the Bangko Sentral ng Pilipinas, we believe that the conduct of reshuffle is also a prerogative of bank management.”^[9]

On June 7, 1999, petitioner submitted to the bank’s Tayabas branch manager a letter in which he applied for a leave of absence from work:

“Dear Sir:

“I wish I could continue working but due to the ailment that I always feel every now and then, I have the honor to apply for at least ten (10) days sick leave effective June 7, 1999.

“Hoping that this request merits your favorable and kind consideration and understanding.”^[10]

On June 21, 1999, petitioner again submitted a letter asking for another leave of absence for twenty days effective on the same date.^[11]

On June 24, 1999, while on his second leave of absence, petitioner filed a Complaint before Arbitration Branch No. IV of the National Labor Relations Commission (NLRC). The Complaint -- for illegal dismissal, underpayment, separation pay and damages -- was filed against the Rural Bank of Lucban and/or its president, Alejo B. Daya; and its Tayabas branch manager, Briccio V. Cada. The case was docketed as NLRC Case SRAB-IV-6-5862-99-Q.^[12]

The labor arbiter’s June 14, 2000 Decision upheld petitioner’s claims as follows:

“WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Declaring respondents guilty of illegal dismissal.
2. Ordering respondents to reinstate complainant to his former position without loss of seniority rights with full backwages from date of dismissal to actual reinstatement in the amount of P55,000.00 as of June 30, 2000.
3. Ordering the payment of separation pay if reinstatement is not possible in the amount of P30,000.00 in addition to 13th month pay of P5,000.00 and the usual P10,000.00 annual bonus afforded the employees.
4. Ordering the payment of unpaid salary for the period covering July 1-30, 1999 in the amount of P5,000.00
5. Ordering the payment of moral damages in the amount of P50,000.00.

6. Ordering the payment of exemplary damages in the amount of P25,000.00.
7. Ordering the payment of Attorney's fees in the amount of P18,000.00 which is 10% of the monetary award."^[13]

On appeal, the NLRC reversed the labor arbiter.^[14] In its July 18, 2001 Resolution, it held:

“We can conceive of no reason to ascribe bad faith or malice to the respondent bank for its implementation of its Board Resolution directing the reshuffle of employees at its Tayabas branch to positions other than those they were occupying. While at first the employees thereby affected would experience difficulty in adjusting to their new jobs, it cannot be gainsaid that the objective for the reshuffle is noble, as not only would the employees obtain additional knowledge, they would also be more well-rounded in the operations of the bank and thus help the latter further strengthen its already existing internal control system.

“The only inconvenience, as we see it, that the [petitioner] may have experienced is that from an appraiser he was made to perform the work of a clerk in the collection of Meralco payments, which he may have considered as beneath him and his experience, being a pioneer employee. But it cannot be discounted either that other employees at the Tayabas branch were similarly reshuffled. The only logical conclusion therefore is that the Board Resolution was not aimed solely at the petitioner, but for all the other employees of the bank as well. Besides, the complainant has not shown by clear, competent and convincing evidence that he holds a vested right to the position of Appraiser.

“How and by what manner a business concern conducts its affairs is not for this Commission to interfere with, especially so if there is no showing, as in the case at bar, that the reshuffle was motivated by bad faith or ill-will.”^[15]

After the NLRC denied his Motion for Reconsideration,^[16] petitioner brought before the CA a Petition for Certiorari^[17] assailing the foregoing Resolution.

Ruling of the Court of Appeals

Finding that no grave abuse of discretion could be attributed to the NLRC, the CA Decision ruled thus:

“The so-called ‘harassment’ which Mendoza allegedly experienced in the aftermath of the reshuffling of employees at the bank is but a figment of his imagination as there is no evidence extant on record which substantiates the same. His alleged demotion, the ‘cold shoulder’ stance, the things about his chair and table, and the alleged reason for the harassment are but allegations bereft of proof and are perforce inadmissible as self-serving statements and can never be considered repositories of truth nor serve as foundations of court decisions anent the resolution of the litigants’ rights.

“When Mendoza was reshuffled to the position of clerk at the bank, he was not demoted as there was no [diminution] of his salary benefits and rank. He could even retain his position title, had he only requested for it pursuant to the reply of the Chairman of the bank’s board of directors to Mendoza’s letter protesting the reshuffle. There is, therefore, no cause to doubt the reasons which the bank propounded in support of its move to reshuffle its employees, viz:

1. to ‘familiarize bank employees with the various phases of bank operations,’ and
2. to ‘further strengthen the existing internal control system’ of the bank.

“The reshuffling of its employees was done in good faith and cannot be made the basis of a finding of constructive dismissal.

“The fact that Mendoza was no longer included in the bank’s payroll for July 1 to 15, 1999 does not signify that the bank has

dismissed the former from its employ. Mendoza separated himself from the bank's employ when, on June 24, 1999, while on leave, he filed the illegal dismissal case against his employer for no apparent reason at all.”^[18]

Hence, this Petition.^[19]

The Issues

Petitioner raises the following issues for our consideration:

- “I. Whether or not the petitioner is deemed to have voluntarily separated himself from the service and/or abandoned his job when he filed his Complaint for constructive and consequently illegal dismissal;
- “II. Whether or not the reshuffling of private respondent's employees was done in good faith and cannot be made as the basis of a finding of constructive dismissal, even as the petitioner's demotion in rank is admitted by both parties;
- “III. Whether or not the ruling in the landmark case of Ruben Serrano vs. NLRC [and Isetann Department Store (323 SCRA 445)] is applicable to the case at bar;
- “IV. Whether or not the Court of Appeals erred in dismissing the petitioner's money claims, damages, and unpaid salaries for the period July 1-30, 1999, although this was not disputed by the private respondent; and
- “V. Whether or not the entire proceedings before the Honorable Court of Appeals and the NLRC are a nullity since the appeal filed by private respondent before the NLRC on August 5, 2000 was on the 15th day or five (5) days beyond the reglementary period of ten (10) days as provided for by law and the NLRC Rules of Procedure.”^[20]

In short, the main issue is whether petitioner was constructively dismissed from his employment.

The Court's Ruling

The Petition has no merit.

Main Issue:

Constructive Dismissal

Constructive dismissal is defined as an involuntary resignation resorted to when continued employment is rendered impossible, unreasonable or unlikely; when there is a demotion in rank or a diminution of pay; or when a clear discrimination, insensibility or disdain by an employer becomes unbearable to the employee.^[21] Petitioner argues that he was compelled to file an action for constructive dismissal, because he had been demoted from appraiser to clerk and not given any work to do, while his table had been placed near the toilet and eventually removed.^[22] He adds that the reshuffling of employees was done in bad faith, because it was designed primarily to force him to resign.^[23]

Management Prerogative to Transfer Employees

Jurisprudence recognizes the exercise of management prerogatives. For this reason, courts often decline to interfere in legitimate business decisions of employers.^[24] Indeed, labor laws discourage interference in employers' judgments concerning the conduct of their business.^[25] The law must protect not only the welfare of employees, but also the right of employers.

In the pursuit of its legitimate business interest, management has the prerogative to transfer or assign employees from one office or area of operation to another -- provided there is no demotion in rank or diminution of salary, benefits, and other privileges; and the action is not motivated by discrimination, made in bad faith, or effected as a form of punishment or demotion without sufficient cause.^[26] This privilege is inherent in the right of employers to control and manage their enterprise effectively.^[27] The right of employees to security of tenure does not give them vested rights to their positions to the extent of depriving management of its prerogative to change their assignments or to transfer them.^[28]

Managerial prerogatives, however, are subject to limitations provided by law, collective bargaining agreements, and general principles of fair play and justice.^[29] The test for determining the validity of the transfer of employees was explained in *Blue Dairy Corporation vs. NLRC*^[30] as follows:

“Like other rights, there are limits thereto. The managerial prerogative to transfer personnel must be exercised without grave abuse of discretion, bearing in mind the basic elements of justice and fair play. Having the right should not be confused with the manner in which that right is exercised. Thus, it cannot be used as a subterfuge by the employer to rid himself of an undesirable worker. In particular, the employer must be able to show that the transfer is not unreasonable, inconvenient or prejudicial to the employee; nor does it involve a demotion in rank or a diminution of his salaries, privileges and other benefits. Should the employer fail to overcome this burden of proof, the employee’s transfer shall be tantamount to constructive dismissal, which has been defined as a quitting because continued employment is rendered impossible, unreasonable or unlikely; as an offer involving a demotion in rank and diminution in pay. Likewise, constructive dismissal exists when an act of clear discrimination, insensibility or disdain by an employer has become so unbearable to the employee leaving him with no option but to forego with his continued employment.”^[31]

Petitioner’s Transfer Lawful

The employer bears the burden of proving that the transfer of the employee has complied with the foregoing test. In the instant case, we find no reason to disturb the conclusion of the NLRC and the CA that there was no constructive dismissal. Their finding is supported by substantial evidence -- that amount of relevant evidence that a reasonable mind might accept as justification for a conclusion.^[32]

Petitioner’s transfer was made in pursuit of respondent’s policy to “familiarize bank employees with the various phases of bank operations and further strengthen the existing internal control

system”^[33] of all officers and employees. We have previously held that employees may be transferred -- based on their qualifications, aptitudes and competencies -- to positions in which they can function with maximum benefit to the company.^[34] There appears no justification for denying an employer the right to transfer employees to expand their competence and maximize their full potential for the advancement of the establishment. Petitioner was not singled out; other employees were also reassigned without their express consent.

Neither was there any demotion in the rank of petitioner; or any diminution of his salary, privileges and other benefits. This fact is clear in respondent’s Board Resolutions, the April 30, 1999 letter of Bank President Daya to Branch Manager Cada, and the May 10, 1999 letter of Daya to petitioner.

On the other hand, petitioner has offered no sufficient proof to support his allegations. Given no credence by both lower tribunals was his bare and self-serving statement that he had been positioned near the comfort room, made to work without a table, and given no work assignment.^[35] Purely conjectural is his claim that the reshuffle of personnel was a harassment in retaliation for an alleged falsification case filed by his relatives against a public official.^[36] While the rules of evidence prevailing in courts of law are not controlling in proceedings before the NLRC,^[37] parties must nonetheless submit evidence to support their contentions.

Secondary Issues:

Serrano vs. NLRC Inapplicable

Serrano vs. NLRC^[38] does not apply to the present factual milieu. The Court ruled therein that the lack of notice and hearing made the dismissal of the employee ineffectual, but not necessarily illegal.^[39] Thus, the procedural infirmity was remedied by ordering payment of his full back wages from the time of his dismissal.^[40] The absence of constructive dismissal in the instant case precludes the application of Serrano. Because herein petitioner was not dismissed, then he is not entitled to his claimed monetary benefits.

Alleged Nullity of NLRC and CA Proceedings

Petitioner argues that the proceedings before the NLRC and the CA were void, since respondent's appeal before the NLRC had allegedly been filed beyond the reglementary period.^[41] A careful scrutiny of his Petition for Review^[42] with the appellate court shows that this issue was not raised there. Inasmuch as the instant Petition challenges the Decision of the CA, we cannot rule on arguments that were not brought before it. This ruling is consistent with the due-process requirement that no question shall be entertained on appeal, unless it has been raised in the court below.^[43]

WHEREFORE, this Petition is **DENIED**, and the June 14, 2002 Decision and the September 25, 2002 Resolution of the Court of Appeals are **AFFIRMED**. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 3-31.

[2] Id., pp. 33-48. Fifteenth Division. Penned by Justice Oswaldo D. Agcaoili (chairman), with the concurrence of Justices Eriberto U. Rosario Jr. and Danilo B. Pine (members).

[3] Id., p. 50.

[4] Assailed Decision, p. 15; rollo, p. 47.

[5] Rollo, p. 119.

[6] Assailed Decision, pp. 2-3; rollo, pp. 34-35.

[7] Letter of Alejo B. Daya dated April 30, 1999; rollo, p. 120.

[8] Rollo, p. 121.

[9] Letter of Daya dated May 10, 1999; rollo, p. 122.

[10] Letter of petitioner dated June 7, 1999; rollo, p. 123.

[11] Letter of petitioner dated June 21, 1999; rollo, p. 124.

[12] Assailed Decision, p. 6; rollo, p. 38.

[13] Decision of Labor Arbiter Waldo Emerson R. Gan dated June 14, 2000, p. 5-6; rollo, pp. 145-146.

[14] CA Decision dated June 14, 2002, pp. 11-12; rollo, pp. 43-44.

[15] NLRC Resolution dated July 18, 2001, pp. 4-5; rollo, pp. 79-80.

[16] Assailed Decision, p. 12; rollo, p. 44.

[17] Rollo, pp. 51-74.

- [18] Assailed Decision, pp. 14-15; rollo, pp. 46-47.
- [19] This case was deemed submitted for resolution on June 9, 2003, upon this Court's receipt of respondent's Memorandum, signed by Atty. Carlos Mayorico E. Caliwara. Petitioner's Memorandum, signed by Atty. Manuel M. Maramba, was received by this Court on April 23, 2003.
- [20] Petitioner's Memorandum, p. 10; rollo, p. 220. Original in upper case.
- [21] Blue Dairy Corporation vs. NLRC, 373 Phil. 179, 186, September 14, 1999; Escobin vs. NLRC, 351 Phil. 973, 999, April 15, 1998; Philippine Japan Active Carbon Corporation vs. NLRC, 171 SCRA 164, 168, March 8, 1989.
- [22] Petitioner's Memorandum, pp. 11, 14; rollo, pp. 221, 224.
- [23] *Id.*, p. 14; *id.*, p. 224.
- [24] Metrolab Industries, Inc. vs. Roldan-Confesor, 324 Phil. 416, 429, February 28, 1996.
- [25] Bontia vs. NLRC, 325 Phil. 443, 452, March 18, 1996.
- [26] Lanzaderas vs. Amethyst Security and General Services, Inc., 404 SCRA 505, June 20, 2003; Jarcia Machine Shop and Auto Supply, Inc. vs. NLRC, 334 Phil. 84, 93, January 2, 1997; Escobin vs. NLRC, *supra*.
- [27] *Ibid.*
- [28] See Antonio H. Abad Jr., *Compendium on Labor Law* (2004), p. 55.
- [29] Philippine Airlines, Inc. vs. NLRC, 225 SCRA 301, 308, August 13, 1993; University of Sto. Tomas vs. NLRC, 190 SCRA 758, 771, October 18, 1990.
- [30] *Supra*.
- [31] *Id.*, p. 186, per Bellosillo, J.
- [32] Tan vs. NLRC, 359 Phil. 499, 512, November 24, 1998. Substantial evidence is the quantum of evidence required to establish a fact in cases before administrative and quasi-judicial bodies like the NLRC (*Equitable Banking Corporation vs. NLRC*, 273 SCRA 352, 373-374, June 13, 1997).
- [33] Board Resolution No. 99-52; rollo, p. 119.
- [34] Allied Banking Corporation vs. Court of Appeals, GR No. 144412, November 18, 2003; Blue Dairy Corporation vs. NLRC, *supra*, p. 186; Philippine Japan Active Carbon Corporation vs. NLRC, *supra*.
- [35] Petitioner's Memorandum, p. 3; rollo, p. 213.
- [36] *Ibid.*
- [37] Jarcia Machine Shop and Auto Supply, Inc. vs. NLRC, *supra*, p. 92.
- [38] 380 Phil. 416, January 27, 2000.
- [39] *Id.*, p. 449. See herein ponente's Separate Opinion in Serrano. See also *Dayan vs. Bank of Philippine Islands*, 421 Phil. 620, 633, November 20, 2001.
- [40] *Id.*, p. 451.
- [41] Petitioner's Memorandum, p. 20; rollo, p. 230.
- [42] Rollo, pp. 51-74.
- [43] Del Rosario vs. Bonga, 350 SCRA 101, 108, January 23, 2001.