

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**PRUDENTIAL BANK and TRUST
COMPANY,**

Petitioner,

-versus-

**G.R. No. 141093
February 20, 2001**

**CLARITA T. REYES,
*Respondent.***

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DECISION

GONZAGA-REYES, J.:

Before the Court is a Petition for Review on Certiorari of the Decision,^[1] dated October 15, 1999 of the Court of Appeals in C.A.-G.R. SP No. 30607 and of its Resolution, dated December 6, 1999 denying petitioner's motion for reconsideration of said decision. The Court of Appeals reversed and set aside the Resolution^[2] of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 009364-95, reversing and setting aside the labor arbiter's decision and dismissing for lack of merit private respondent's complaint.^[3]

The case stems from NLRC NCR Case No. 00-06-03462-92, which is a complaint for illegal suspension and illegal dismissal with prayer for moral and exemplary damages, gratuity, fringe benefits and

attorney's fees filed by Clarita Tan Reyes against Prudential Bank and Trust Company (the Bank) before the labor arbiter. Prior to her dismissal, private respondent Reyes held the position of Assistant Vice President in the foreign department of the Bank, tasked with the duties, among others, to collect checks drawn against overseas banks payable in foreign currency and to ensure the collection of foreign bills or checks purchased, including the signing of transmittal letters covering the same.

After proceedings duly undertaken by the parties, judgment was rendered by Labor Arbiter Cornelio L. Linsangan, the dispositive portion of which reads:

“WHEREFORE, finding the dismissal of complainant to be without factual and legal basis, judgment is hereby rendered ordering the respondent bank to pay her back wages for three (3) years in the amount of P540,000.00 (P15,000.00 x 36 mos.). In lieu of reinstatement, the respondent is also ordered to pay complainant separation pay equivalent to one month salary for every year of service, in the amount of P420,000.00 (P15,000 x 28 mos.). In addition, the respondent should also pay complainant profit sharing and unpaid fringe benefits. Attorney's fees equivalent to ten (10%) percent of the total award should likewise be paid by respondent.

SO ORDERED.”^[4]

Not satisfied, the Bank appealed to the NLRC which, as mentioned at the outset, reversed the Labor Arbiter's decision in its Resolution dated 24 March 1997. Private respondent sought reconsideration which, however, was denied by the NLRC in its Resolution of 28 July 1998. Aggrieved, private respondent commenced on October 28, 1998, a petition for certiorari before the Supreme Court.^[5] The subject petition was referred to the Court of Appeals for appropriate action and disposition per resolution of this Court dated November 25, 1998, in accordance with the ruling in *St. Martin Funeral Homes vs. NLRC*.^[6]

In its assailed decision, the Court of Appeals adopted the following antecedent facts leading to Reyes' dismissal as summarized by the NLRC:

“The auditors of the Bank discovered that two checks, No. 011728-7232-146, in the amount of US\$109,650.00, and No. 011730-7232-146, in the amount of US\$115,000.00, received by the Bank on April 6, 1989, drawn by the Sanford Trading against Hongkong and Shanghai Banking Corporation, Jurong Branch, Singapore, in favor of Filipinas Tyrom, were not sent out for collection to Hongkong Shanghai Banking Corporation on the alleged order of the complainant until the said checks became stale.

The Bank created a committee to investigate the findings of the auditors involving the two checks which were not collected and became stale.

On March 8, 1991, the president of the Bank issued a memorandum to the complainant informing her of the findings of the auditors and asked her to give her side. In reply, complainant requested for an extension of one week to submit her explanation. In a subsequent letter, dated March 14, 1991, to the president, complainant stated that in view of the refusal of the Bank that she be furnished copies of the pertinent documents she is requesting and the refusal to grant her a reasonable period to prepare her answer, she was constrained to make a general denial of any misfeasance or malfeasance on her part and asked that a formal investigation be made.

As the complainant failed to attend and participate in the formal investigation conducted by the Committee on May 24, 1991, despite due notice, the Committee proceeded with its hearings and heard the testimonies of several witnesses.

The Committee's findings were:

- 'a) The two (2) HSBC checks were received by the Foreign Department on 6 April 1989. On the same day, complainant authorized the crediting of the account of Filipinas Tyrom

in the amount of 44,780,102.70 corresponding to the face value of the checks, (Exhibits 6, 22 to 22-A and 23 to 23-A). On the following day, a transmittal letter was prepared by Ms. Cecilia Joven, a remittance clerk then assigned in the Foreign Department, for the purpose of sending out the two (2) HSBC checks for collection. She then requested complainant to sign the said transmittal letters (Exhibits 1, 7 and 25; TSN, 11 March 1993, pp. 42-52), as it is complainant who gives her instructions directly concerning the transmittal of foreign bills purchased. All other transmittal letters are in fact signed by complainant.

- b) After Ms. Joven delivered the transmittal letters and the checks to the Accounting Section of the Foreign Department, complainant instructed her to withdraw the same for the purpose of changing the addressee thereon from American Express Bank to Bank of Hawaii (*ibid.*) under a special collection scheme (Exhibits 4 and 5 to 5-B).
- c) After complying with complainant's instruction, Ms. Joven then returned to complainant for the latter to sign the new transmittal letters. However, complainant told Ms. Joven to just hold on to the letters and checks and await further instructions (*ibid.*). Thus, the new transmittal letters remained unsigned. (See Exhibits 5 to 5-B).
- d) In June 1989, Ms. Joven was transferred to another department. Hence, her duties, responsibilities and functions, including the responsibility over the two (2) HSBC checks, were turned over to another remittance clerk, Ms. Analisa Castillo (Exhibit 14; TSN, 4 June 1993, pp. 27-29).
- e) When asked by Ms. Castillo about the two (2) HSBC checks, Ms. Joven relayed to the latter complainant's instruction (Exhibit 14; TSN, 4 June 1993, p. 42).
- f) About fifteen (15) months after the HSBC checks were received by the Bank, the said checks were discovered in the course of an audit conducted by the Bank's auditors.

Atty. Pablo Magno, the Bank's legal counsel, advised complainant to send the checks for collection despite the lapse of fifteen (15) months.

- g) Complainant, however, deliberately withheld Atty. Magno's advice from her superior, the Senior Vice-President, Mr. Renato Santos and falsely informed the latter that Atty. Magno advised that a demand letter be sent instead, thereby further delaying the collection of the HSBC checks.
- h) On 10 July 1990, the HSBC checks were finally sent for collection, but were returned on 16 July 1990 for the reason 'account closed' (Exhibits 2-A and 3-A).'

After a review of the Committee's findings, the Board of Directors of the Bank resolved not to re-elect complainant any longer to the position of assistant president pursuant to the Bank's By-laws.

On July 19, 1991, complainant was informed of her termination of employment from the Bank by Senior Vice President Benedicto L. Santos, in a letter the text of which is quoted in full:

'Dear Mrs. Reyes:

After a thorough investigation and appreciation of the charges against you as contained in the Memorandum of the President dated March 8, 1991, the Fact Finding Committee which was created to investigate the commission and/or omission of the acts alluded therein, has found the following:

1. You have deliberately held the clearing of Checks Nos. 11728 and 11730 of Hongkong and Shanghai Banking Corporation in the total amount of US\$224,650.00 by giving instructions to the collection clerk not to send the checks for collection. In view thereof, when the said checks were finally sent to clearing after the lapse of 15 months from receipt of said checks, they were returned for the reason 'Account closed.' To date, the value of said checks have not been paid by Filipinas Tyrom,

which as payee of the checks, had been credited with their peso equivalent;

2. You tried to influence the decision of Atty. Pablo P. Magno, Bank legal counsel, by asking him to do something allegedly upon instructions of a Senior Vice President of the Bank or else lose his job when in truth and in fact no such instructions was given; and
3. You deliberately withheld from Mr. Santos, Senior Vice President, the advice given by the legal counsel of the Bank which Mr. Santos had asked you to seek. As a matter of fact, you even relayed a false advice which delayed further the sending of the two checks for collection. Likewise, you refused to heed the advice of the Bank's legal counsel to send the checks for collection.

These findings have given rise to the Bank's loss of trust and confidence in you, the same being acts of serious misconduct in the performance of your duties resulting in monetary loss to the Bank. In view thereof, the Board has resolved not to re-elect you to the position of Assistant Vice President of the Bank. Accordingly, your services are terminated effective immediately. In relation thereto, your monetary and retirement benefits are forfeited except those that have vested in you.'

In her position paper, complainant alleged that the real reason for her dismissal was her filing of the criminal cases against the bank president, the vice president and the auditors of the Bank, such filing not being a valid ground for her dismissal. Furthermore, she alleged that it would be self-serving for the respondent to state that she was found guilty of gross misconduct in deliberately withholding the clearing of the two dollar checks. She further alleged that she was not afforded due process as she was not given the chance to refute the charges mentioned in the letter of dismissal. Hence, she was illegally dismissed.

On the other hand, respondent argues that there were substantial bases for the Bank to lose its trust and confidence on the complainant

and, accordingly, had just cause for terminating her services. Moreover, for filing the clearly unfounded suit against the respondent's officers, complainant is liable to pay moral and exemplary damages and attorney's fees."^[7]

The Court of Appeals found that the NLRC committed grave abuse of discretion in ruling that the dismissal of Reyes is valid. In effect, the Court of Appeals reinstated the judgment of the labor arbiter with modification as follows:

“WHEREFORE, in the light of the foregoing, the decision appealed from is hereby REVERSED and SET ASIDE. In lieu thereof, judgment is hereby rendered ordering respondent Bank as follows:

1. To pay petitioner full backwages and other benefits from July 19, 1991 up to the finality of this judgment;
2. To pay petitioner separation pay equivalent to one (1) month salary for every year of service in lieu of reinstatement; and
3. To pay attorney's fee equivalent to ten (10%) percent of the total award.

SO ORDERED.”^[8]

Hence, the Bank's recourse to this Court contending in its memorandum that:

“IN SETTING ASIDE THE DECISION DATED 24 MARCH 1997 AND THE RESOLUTION DATED 28 JULY 1998 OF THE NLRC AND REINSTATING WITH MODIFICATION THE DECISION DATED 20 JULY 1995 OF LABOR ARBITER CORNELIO L. LINSANGAN, THE HONORABLE COURT OF APPEALS SERIOUSLY ERRED, IN VIEW OF THE FOLLOWING:

I.

IT IS THE SEC (NOW THE REGIONAL TRIAL COURT) AND NOT THE NLRC WHICH HAS ORIGINAL AND EXCLUSIVE JURISDICTION OVER CASES INVOLVING THE REMOVAL FROM OFFICE OF CORPORATE OFFICERS.

II.

EVEN ASSUMING ARGUENDO THAT THE NLRC HAS JURISDICTION, THERE WAS SUBSTANTIAL EVIDENCE OF RESPONDENT'S MISCONDUCT JUSTIFYING THE BANK'S LOSS OF TRUST AND CONFIDENCE ON (sic) HER.

III.

EVEN ASSUMING ARGUENDO THAT RESPONDENT WAS ENTITLED TO BACKWAGES, THE HONORABLE COURT OF APPEALS ERRED IN AWARDING UNLIMITED AND UNQUALIFIED BACKWAGES THEREBY GOING FAR BEYOND THE LABOR ARBITER'S DECISION LIMITING THE SAME TO THREE YEARS, WHICH DECISION RESPONDENT HERSELF SOUGHT TO EXECUTE.”^[9]

In sum, the resolution of this petition hinges on (1) whether the NLRC has jurisdiction over the complaint for illegal dismissal; (2) whether complainant Reyes was illegally dismissed; and (3) whether the amount of back wages awarded was proper.

On the first issue, petitioner seeks refuge behind the argument that the dispute is an intra-corporate controversy concerning as it does the non-election of private respondent to the position of Assistant Vice-President of the Bank which falls under the exclusive and original jurisdiction of the Securities and Exchange Commission (now the Regional Trial Court) under Section 5 of Presidential Decree No. 902-A. More specifically, petitioner contends that complainant is a corporate officer, an elective position under the corporate by-laws

and her non-election is an intra-corporate controversy cognizable by the SEC invoking lengthily a number of this Court's decisions.^[10]

Petitioner Bank can no longer raise the issue of jurisdiction under the principle of estoppel. The Bank participated in the proceedings from start to finish. It filed its position paper with the Labor Arbiter. When the decision of the Labor Arbiter was adverse to it, the Bank appealed to the NLRC. When the NLRC decided in its favor, the bank said nothing about jurisdiction. Even before the Court of Appeals, it never questioned the proceedings on the ground of lack of jurisdiction. It was only when the Court of Appeals ruled in favor of private respondent did it raise the issue of jurisdiction. The Bank actively participated in the proceedings before the Labor Arbiter, the NLRC and the Court of Appeals. While it is true that jurisdiction over the subject matter of a case may be raised at any time of the proceedings, this rule presupposes that laches or estoppel has not supervened. In this regard, *Bañaga vs. Commission on the Settlement of Land Problems*,^[11] is most enlightening. The Court therein stated:

“This Court has time and again frowned upon the undesirable practice of a party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse. Here, the principle of estoppel lies. Hence, a party may be estopped or barred from raising the question of jurisdiction for the first time in a petition before the Supreme Court when it failed to do so in the early stages of the proceedings.”

Undeterred, the Bank also contends that estoppel cannot lie considering that “from the beginning, petitioner Bank has consistently asserted in all its pleadings at all stages of the proceedings that respondent held the position of Assistant Vice President, an elective position which she held by virtue of her having been elected as such by the Board of Directors.” As far as the records before this Court reveal however, such an assertion was made only in the appeal to the NLRC and raised again before the Court of Appeals, not for purposes of questioning jurisdiction but to establish that private respondent's tenure was subject to the discretion of the Board of Directors and that her non-reelection was a mere expiration of her term. The Bank insists that private respondent was elected Assistant

Vice President sometime in 1990 to serve as such for only one year. This argument will not do either and must be rejected.

It appears that private respondent was appointed Accounting Clerk by the Bank on July 14, 1963. From that position she rose to become supervisor. Then in 1982, she was appointed Assistant Vice-President which she occupied until her illegal dismissal on July 19, 1991. The bank's contention that she merely holds an elective position and that in effect she is not a regular employee is belied by the nature of her work and her length of service with the Bank. As earlier stated, she rose from the ranks and has been employed with the Bank since 1963 until the termination of her employment in 1991. As Assistant Vice President of the foreign department of the Bank, she is tasked, among others, to collect checks drawn against overseas banks payable in foreign currency and to ensure the collection of foreign bills or checks purchased, including the signing of transmittal letters covering the same. It has been stated that "the primary standard of determining regular employment is the reasonable connection between the particular activity performed by the employee in relation to the usual trade or business of the employer."^[12] Additionally, "an employee is regular because of the nature of work and the length of service, not because of the mode or even the reason for hiring them."^[13] As Assistant Vice-President of the Foreign Department of the Bank she performs tasks integral to the operations of the bank and her length of service with the bank totaling 28 years speaks volumes of her status as a regular employee of the bank. In fine, as a regular employee, she is entitled to security of tenure; that is, her services may be terminated only for a just or authorized cause.^[14] This being in truth a case of illegal dismissal, it is no wonder then that the Bank endeavored to the very end to establish loss of trust and confidence and serious misconduct on the part of private respondent but, as will be discussed later, to no avail.

This brings us to the second issue wherein the Bank insists that it has presented substantial evidence to prove the breach of trust on the part of private respondent warranting her dismissal. On this point, the Court of Appeals disagreed and set aside the findings of the NLRC that Reyes deliberately withheld the release of the two dollar checks; that she is guilty of conflict of interest that she waived her right to due process for not attending the hearing; and that she was dismissed

based on loss of trust and confidence. We quote pertinent portions of the decision, to wit:

FIRST: Respondent Bank heavily relied on the testimony and affidavit of Remittance Clerk Joven in trying to establish loss of confidence. However, Joven's allegation that petitioner instructed her to hold the subject two dollar checks amounting to \$224,650.00 falls short of the requisite proof to warrant petitioner's dismissal. Except for Joven's bare assertion to withhold the dollar checks per petitioner's instruction, respondent Bank failed to adduce convincing evidence to prove bad faith and malice. It bears emphasizing that respondent Bank's witnesses merely corroborate Joven's testimony.

Upon this point, the rule that proof beyond reasonable doubt is not required to terminate an employee on the charge of loss of confidence and that it is sufficient that there is some basis for such loss of confidence, is not absolute. The right of an employer to dismiss employees on the ground that it has lost its trust and confidence in him must not be exercised arbitrarily and without just cause. For loss of trust and confidence to be valid ground for an employee's dismissal, it must be substantial and not arbitrary, and must be founded on clearly established facts sufficient to warrant the employee's separation from work (Labor vs. NLRC, 248 SCRA 183).

SECOND. Respondent Bank's charge of deliberate withholding of the two dollar checks finds no support in the testimony of Atty. Jocson, Chairman of the Investigating Committee. On cross examination, Atty. Jocson testified that the documents themselves do not show any direct withholding (pp. 186-187, Rollo). There being conflict in the statement of witnesses, the court must adopt the testimony which it believes to be true (U.S. vs. Losada, 18 Phil. 90).

THIRD. Settled is the rule that when the conclusions of the Labor Arbiter are sufficiently substantiated by the evidence on record, the same should be respected by appellate tribunals since he is in a better position to assess and evaluate the credibility of the contending parties (Ala Mode Garments, Inc.

vs. NLRC, 268 SCRA 497). In this regard, the Court quotes with approval the following disquisition of Labor Arbiter Linsangan, thus:

This Office has repeatedly gone over the records of the case and painstakingly examined the testimonies of respondent bank's witnesses. One thing was clearly established: that the legality of complainant's dismissal based on the first ground stated in respondent's letter of termination (Exh. 25-J, supra) will rise or fall on the credibility of Miss Joven who undisputedly is the star witness for the bank. It will be observed that the testimonies of the bank's other witnesses, Analiza Castillo, Dante Castor and Antonio Ragasa pertaining to the non-release of the dollar checks and their corresponding transmittal letters were all anchored on what was told them by Ms. Joven, that is: she was instructed by complainant to hold the release of subject checks. In a nutshell, therefore, the issue boils down to who between complainant and Ms. Joven is more credible.

After painstakingly examining the testimonies of Ms. Joven and respondent's other witnesses this Office finds the evidence still wanting in proof of complainant's guilt. This Office had closely observed the demeanor of Ms. Joven while testifying on the witness stand and was not impressed by her assertions. The allegation of Ms. Joven in that her non-release of the dollar checks was upon the instruction of complainant Reyes is extremely doubtful. In the first place, the said instruction constitutes a gross violation of the bank's standard operating procedure. Moreover, Ms. Joven was fully aware that the instruction, if carried out, will greatly prejudice her employer bank. It was incumbent upon Ms. Joven not only to disobey the instruction but even to report the matter to management, if same was really given to her by complainant.

Our doubt on the veracity of Ms. Joven's allegation even deepens as we consider the fact that when the non-release of the checks was discovered by Ms. Castillo the former contented herself by continuously not taking any action on the two dollar checks. Worse, Ms. Joven even impliedly told by Ms. Castillo

(sic) to ignore the two checks and just withhold their release. In her affidavit Ms. Castillo said:

‘4. When I asked Cecille Joven what I was supposed to do with those checks, she said the same should be held as per instruction of Mrs. Reyes.’ (Exh. “14”, supra).

The evidence shows that it was only on 16 May 1990 that Ms. Joven broke her silence on the matter despite the fact that on 15 November 1989, at about 8:00 p.m. the complainant, accompanied by driver Celestino Banito, went to her residence and confronted her regarding the non-release of the dollar checks. It took Ms. Joven eighteen (18) months before she explained her side on the controversy. As to what prompted her to make her letter of explanation was not even mentioned.

On the other hand, the actions taken by the complainant were spontaneous. When complainant was informed by Mr. Castor and Ms. Castillo regarding the non-release of the checks sometime in November, 1989 she immediately reported the matter to Vice President Santos, Head of the Foreign Department. And as earlier mentioned, complainant went to the residence of Ms. Joven to confront her. In this regard, Celestino Bonito, complainant’s driver, stated in his affidavit, thus:

- ‘1. Sometime on November 15, 1989 at about 7:00 o’clock in the evening, Mrs. Clarita Tan Reyes and I were in the residence of one Ms. Cecille Joven, then a Processing Clerk in the Foreign Department of Prudential Bank;
2. Ms. Cecille Joven, her mother, myself, and Mrs. Clarita Tan Reyes were seated in the sala when the latter asked the former, Ms. Cecille Joven, how it came about that the two dollar checks which she was then holding with the transmittal letters, were found in a plastic envelope kept day-to-day by the former;

3. Hesitatingly, Cecille Joven said: “Eh, Mother (Mrs. Tan Reyes had been intimately called Mother in the Bank) akala ko bouncing checks yon mga yon.
4. Mrs. Clarita Tan Reyes, upon hearing those words, was surprised and she said: “Ano, papaano mong alam na bouncing na hindi mo pa pinadadala;
5. Mrs. Cecille Joven turned pale and was not able to answer.’

There are other factors that constrain this Office to doubt even more the legality of complainant’s dismissal based on the first ground stated in the letter of dismissal. The non-release of the dollar checks was reported to top management sometime on 15 November 1989 when complainant, accompanied by Supervisor Dante Castor and Analiza Castillo, reported the matter to Vice President Santos. And yet, it was only on 08 March 1991, after a lapse of sixteen (16) months from the time the non-release of the checks was reported to the Vice-President, that complainant was issued a memorandum directing her to submit an explanation. And it took the bank another four (4) months before it dismissed complainant.

The delayed action taken by respondent against complainant lends credence to the assertion of the latter that her dismissal was a mere retaliation to the criminal complaints she filed against the bank’s top officials.

It clearly appears from the foregoing that the complainant herein has no knowledge of, much less participation in, the non-release of the dollar checks under discussion. Ms. Joven is solely responsible for the same. Incidentally, she was not even reprimanded by the bank.

FOURTH. Respondent Bank having failed to furnish petitioner necessary documents imputing loss of confidence, petitioner was not amply afforded opportunity to prepare an intelligent answer. The Court finds nothing confidential in the auditor’s report and the affidavit of Transmittal Clerk Joven. Due process

dictates that management accord the employees every kind of assistance to enable him to prepare adequately for his defense, including legal representation.

The issue of conflict of interest not having been covered by the investigation, the Court finds it irrelevant to the charge.”^[15]

We uphold the findings of the Court of Appeals that the dismissal of private respondent on the ground of loss of trust and confidence was without basis. The charge was predicated on the testimony of Ms. Joven and we defer to the findings of the Labor Arbiter as confirmed and adopted by the Court of Appeals on the credibility of said witness. This Court is not a trier of facts and will not weigh anew the evidence already passed upon by the Court of Appeals.^[16]

On the third issue, the Bank questions the award of full backwages and other benefits from July 19, 1991 up to the finality of this judgment; separation pay equivalent to one (1) month salary for every year of service in lieu of reinstatement; and attorney’s fees equivalent to ten (10%) percent of the total award. The Bank argues, in the main, that private respondent is not entitled to full backwages in view of the fact that she did not bother to appeal that portion of the labor arbiter’s judgment awarding back wages limited to three years. It must be stressed that private respondent filed a special civil action for certiorari to review the decision of the NLRC^[17] and not an ordinary appeal. An ordinary appeal is distinguished from the remedy of certiorari under Rule 65 of the Revised Rules of Court in that in ordinary appeals it is settled that a party who did not appeal cannot seek affirmative relief other than the ones granted in the decision of the court below.^[18] On the other hand, resort to a judicial review of the decisions of the National Labor Relations Commission in a petition for certiorari under Rule 65 of Rules of Court is confined to issues of want or excess of jurisdiction and grave abuse of discretion.^[19] In the instant case, the Court of Appeals found that the NLRC gravely abused its discretion in finding that the private respondent’s dismissal was valid and so reversed the same. Corollary to the foregoing, the appellate court awarded backwages in accordance with current jurisprudence.

Indeed, jurisprudence is clear on the amount of backwages recoverable in cases of illegal dismissal. Employees illegally dismissed prior to the effectivity of Republic Act No. 6715 on March 21, 1989 are entitled to backwages up to three (3) years without deduction or qualification, while those illegally dismissed after are granted full backwages inclusive of allowances and other benefits or their monetary equivalent from the time their actual compensation was withheld from them up to the time of their actual reinstatement.^[20] Considering that private respondent was terminated on July 19, 1991, she is entitled to full backwages from the time her actual compensation was withheld from her (which, as a rule, is from the time of her illegal dismissal) up to the finality of this judgment (instead of reinstatement) considering that reinstatement is no longer feasible as correctly pointed out by the Court of Appeals on account of the strained relations brought about by the litigation in this case. Since reinstatement is no longer viable, she is also entitled to separation pay equivalent to one (1) month salary for every year of service.^[21] Lastly, since private respondent was compelled to file an action for illegal dismissal with the labor arbiter, she is likewise entitled to attorney's fees^[22] at the rate above-mentioned. There is no room to argue, as the Bank does here, that its liability should be mitigated on account of its good faith and that private respondent is not entirely blameless. There is no showing that private respondent is partly at fault or that the Bank acted in good faith in terminating an employee of twenty-eight years. In any event, Article 279 of Republic Act No. 6715^[23] clearly and plainly provides for "full backwages" to illegally dismissed employees.

WHEREFORE, the instant petition for review on certiorari is **DENIED**, and the assailed Decision of the Court of Appeals, dated October 15, 1999, is **AFFIRMED**.

SO ORDERED.

Melo, Vitug, Panganiban and Sandoval-Gutierrez, JJ., concur.

[1] Penned by Associate Justice Artemio G. Tuquero and concurred in by Associate Justices Eubolo G. Verzola and Elvi John S. Asuncion.

- [2] Penned by Presiding Commissioner Bartolome S. Carale and concurred in by Commissioners Vicente S.E. Veloso and Alberto R. Quimpo.
- [3] Docketed as NLRC NCR-00-06-03462-92.
- [4] CA Rollo, p 61.
- [5] Docketed as G.R. No. 135883.
- [6] 295 SCRA 494 (1998)
- [7] Rollo, pp. 47-51.
- [8] Ibid., pp. 56-57.
- [9] Rollo, p. 136.
- [10] Espino vs. NLRC, 240 SCRA 52; Philippine School of Business Administration vs. Leño, 127 SCRA 778; Dy vs. NLRC, 145 SCRA 211; Fortune Cement Corporation vs. NLRC, 193 SCRA 258; Armando de Rossi vs. NLRC, G.R. No. 108710, September 14, 1999.
- [11] 181 SCRA 599 (1990).
- [12] Bernardo vs. NLRC, 310 SCRA 186 (1999).
- [13] Ibid.
- [14] Bernardo, supra.
- [15] Rollo, pp. 52-56.
- [16] Valmonte vs. Court of Appeals, 303 SCRA 278 (1999).
- [17] St. Martin Funeral Home, supra.
- [18] Saltiga de Romero vs. Court of Appeals, 319 SCRA 180 (1999).
- [19] Secon Philippines, Ltd., vs. NLRC, 319 SCRA 685 (1999).
- [20] Bustamante vs. NLRC, 265 SCRA 61 (1996).
- [21] Globe-Mackay Cable and Radio Corporation vs. NLRC, 206 SCRA 701 (1992).
- [22] Asian Center for Career and Employment System and Services, Inc. (ACCESS) vs. NLRC, 297 SCRA 727(1998).
- [23] Art. 279. Security of Tenure. — An employee who is unjustly dismissed from work shall be entitled to reinstatement without loss of seniority rights and other privileges and to his full backwages, inclusive of allowances, and to his other benefits or their monetary equivalent computed from the time his compensation is withheld from him up to the time of his actual reinstatement.