

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
SECOND DIVISION**

**ELIZABETH RAMOS,
*Petitioner,***

-versus-

**G.R. No. 130473
October 21, 1998**

**NATIONAL LABOR RELATIONS
COMMISSION (Third Division) LABOR
ARBITER JOSE G. DE VERA and U.S.
EMBASSY FILIPINO EMPLOYEES
CREDIT COOPERATIVE (USECO) and
its President, MARVIN RAMOS,
*Respondents.***

X-----X

DECISION

PUNO, J.:

This is a Petition for *Certiorari* filed by Elizabeth Ramos to reverse the ruling of the National Labor Relations Commission [1] affirming her suspension and dismissal from employment for loss of trust and confidence.

In 1978, petitioner was employed as a bookkeeper-accountant by respondent United States Embassy Filipino Employees Credit Cooperative (USECO). [2] Nine years later, she was promoted to the

position of Management Assistant. Her latest salary was P18,278.46, per month.

In 1993, the members of USECO elected a new set of Board of Directors. The Board, led by its President, respondent Marvin Santos, created an Audit and Inventory Committee (AIC) to determine whether USECO has a sound financial management and control mechanism.

The committee unearthed anomalies in USECO's lending transactions. Its findings were taken up in the June 4, 1993 meeting of the Board of Directors. Petitioner and her co-employees, Luz Coronel and Nanette Legaspi, were called to shed light on some items in the Audit Committee Report, to wit:

“1. Unrecorded Loans

X X X

The case of Aida Halasan (former USECO Assistant Treasurer) was particularly discussed in regard to her previous loan amounting to P76,140 which the AIC discovered as unrecorded in her ledger. The transaction was recorded in the Cash Disbursement book and the check was issued for the net amount of P74,417. Her ledger also showed no record of payment in any manner.

2. Fabricated Ledger

Alex Lopez' and Steve Roldan's true ledgers were hidden by Beth Ramos (herein petitioner) and Luz Coronel and new ones were fabricated to conceal their loans amounting to more than the P120,000 limit. Luz explained that she was given instructions to keep them from the Audit Committee's knowledge.

3. Falsification of documents

Beth admitted her serious offense in regard to falsification of documents.

4. Accommodation of Payroll Checks

USECO staff granted a special privilege to certain employees regarding the encashment of payroll checks one day in advance of the date on the check. It was stopped earlier in the past as it added to the normal workload and was deemed to be disadvantageous for the USECO because the interest to be earned by the money for that day has been lost.

5. Encashment of Checks/CPAs

Why was Beth's signature/initial needed for Citibank to encash the check when the signatures of the authorized officers already appear on the check?

Why were CPAs in the past released and encashed without the authorized signatures?

6. Resigned Members

When asked by the Board to explain how recently resigned members and other resigned employees in the past were able to secure loans, Beth replied that she 'just wanted to help members without regard to existing policies.

— Raquel Maniquiz' case — Raquel was able to make a loan amounting to P80,000 after she resigned and her loan application was approved only by Aida Halasan (?). Beth Ramos indicated that Raquel intended to pay said loan thru her CSR payment and terminal leave pay.

Aside from granting Raquel the loan of P80,000 she was allowed to withdraw her remaining deposit with the USECO. Beth Ramos was asked to explain how this withdrawal was made possible. As she was unable to give the answer during the meeting, she was asked to include it in her written reply.

8. Unrecorded Loan of Resigned Members

Batoy's case was classified under this irregularity which the AIC discovered during the internal audit. Batoy's loan was recorded in the cash disbursement book in the name of E. Ramos. However, E. Ramos' ledger does not show a record of said loan. Beth Ramos was required by the board to include her explanation of this case in her written explanation.

9. Withdrawal of more than the deposits.

Paladay's case was mentioned under this irregularity. It was mentioned, however, that there could have been an error in the running balance.

Another case is Rafael Tan's over withdrawal which AIC considers not in error in the running balance but an accommodation since he made a deposit of the same amount the following day." (Emphasis ours)

On June 17, 1993, respondent Ramos directed petitioner to submit her written explanation on the aforementioned irregularities.

In her letter, dated June 18, 1993, petitioner made the following explanation:

"I believe that the President was then, as he is now fully aware of the prevailing conditions in USECU's (sic) operations with respect to loan processing and approval. To support my statement that the loans are approved based on prerogatives of individuals in authority, I respectfully invite the President's attention to the letter of Mr. Franco dated March 15, 1993, in which he very succinctly expressed his views about loans and I quote. 'Personally, I would rather violate an existing rule that jeopardize (sic) the welfare of USECU members since most of their reasons were to defray their medical/hospital expenses (and) of that of their dependents.' This view is not restricted to

Mr. Franco, but (was) likewise held and maintained by previous Boards these past many, many years.

“Given in the context of our culture the terms of employer-employee relationship, it is unfortunate that the USECU Staff had to resort to creating dummy records. But since the loans are duly acknowledged by the borrowers in other legitimate documents, it is readily apparent that the records were made simply to accommodate those borrowers beyond the authorized limits, but never, never to defraud USECU. In this regard, the President is respectfully urged to consider the positions held by the concerned borrowers not only in the USECU hierarchy when the loans were obtained, but also their positions in their respective places of work within the U.S. Mission. It would have been the height of naivete for the USECU Staff to impose the USECU rules and act ‘holier than thou’ in contravention of prevailing practice as very well expressed in Mr. Franco’s letter. It is pointed out that these borrowers exceeding the prescribed limits must be fully aware of their financial status each and every time they submitted applications for additional loans. And, in the absence of authority superior to the Board and mere employees of the Board, where could the USECU Staff go, assuming that for a moment for the sake of discussion, that the staff did not subscribe to the practice?”

On July 20, 1993, petitioner was preventively suspended for thirty (30) days. On August 19, 1993, petitioner was placed on forced leave with pay, pending the completion of the investigation.

USECO also commissioned an external auditing firm, J.D. Cayetano & Associates, to examine the irregularities discovered in its lending practices. The external auditor not only confirmed the irregularities but also discovered shortages in bank deposits by P360,964.38.

The Board of Directors held another meeting to study the report of the external auditor. It noted overages in the loan receivables in the amount of P2,275,544.38. The overages were attributed to several factors, i.e., non-recording of loan payments and/or unauthorized or fictitious loans which were entered in the Cash Disbursement Book but not in the individual subsidiary ledgers.

On September 17, 1993, USECO dismissed the petitioner for loss of trust and confidence. Petitioner countered with a complaint^[3] against USECO for illegal dismissal, illegal suspension, underpayment of salary, moral damages and attorney's fees. She prayed for her reinstatement with backwages, or in the alternative, for the payment of separation pay.

In a Decision,^[4] dated April 24, 1995, Labor Arbiter Jose G. De Vera sustained the suspension and dismissal of petitioner but ordered the payment of her unpaid salary. Its dispositive portion reads:

“WHEREFORE, all the foregoing premises being considered, judgment is hereby rendered declaring the complainant's (petitioner's) preventive suspension and dismissal from employment as just and valid and perforce the complaint for reinstatement/separation pay, moral damages and attorney's fees is dismissed for lack of merit. And on the complaint for unpaid salaries, the respondent company is hereby ordered to pay complainant the sum of P18,278.46.”

Petitioner appealed to the National Labor Relations Commission (NLRC). In a Decision^[5] dated February 18, 1997, the NLRC reversed the labor arbiter. USECO's first motion for reconsideration was denied for lack of merit.^[6] Undaunted, USECO filed a Second Motion for Reconsideration.^[7] In its Resolution dated May 6, 1997, the NLRC granted the motion and reinstated the Decision of the labor arbiter.^[8] The relevant portion of the resolution reads:

“We cannot blame respondents from suspending complainant (petitioner). Obviously, the provision of law for the immediate suspension of what is believed to be a dishonest employee is an appropriate measure of self-preservation, for the continuance in office of such an employee poses grave danger to the viability and continued existence of the cooperative.

“In view of all the foregoing circumstances, we find that there is indeed justifiable cause for complainant's dismissal on the ground of breach of trust. There can be no doubt that complainant's continuance in the clearly sensitive and fiduciary

position of Management Assistant would be patently inimical to the cooperative's interest. It would be oppressive and unjust to order the respondent to take her back; for the law, in protecting the rights of the worker, authorizes neither oppression nor self-destruction of the employer.

“WHEREFORE, the instant motion is hereby GIVEN DUE COURSE. The Decision of 18 February 1997 as well as the Resolution of 26 March 1997 of this Commission are hereby SET ASIDE and the 24 April 1995 decision of the Labor Arbiter, REINSTATED and AFFIRMED.”

It was petitioner's turn to move for a reconsideration on the ground that a second motion for reconsideration is not allowed under the New Rules of Procedure of the NLRC. The motion was denied in a Resolution dated August 29, 1997.^[9] The NLRC ruled:

“Indeed, the rule is always in favor of liberality in the construction of procedural laws so that the real matter in dispute, as in the instant case, may be submitted and decided properly and in accordance with the law and established jurisprudence. Rigid specifications (Rules of Procedure) set by the human mind may, at times, be relaxed so as to give way to the sense of fair play as recognized by equity when the peculiar circumstances of a case, like the one at bench, so warrant. After all, the Rules of Procedure were never intended to override the ends of justice.

“X X X

“WHEREFORE, premises considered, the Motion for Reconsideration is hereby DENIED.

SO ORDERED.”

Hence, the present petition which poses two (2) important issues: one is substantive, whether there is just cause for petitioner's suspension and dismissal, and the other is procedural, whether the NLRC committed grave abuse of discretion in granting private respondent's second motion for reconsideration.

We dismiss the petition.

There is no question that the position of petitioner as Management Assistant requires a high degree of trust and confidence. Her duties involve the following:

- “1. Independently conceives and prepares monthly financial statements and bank reconciliation statements.
2. Renders budgetary advices to the Board of Directors and monitors the Union’s marketable securities and investments.
3. Pre-audits loan applications and vouchers, prepares checks, effects deposits to the bank and performs USECU’S (sic) small scale payroll.
4. Reconciles ledgers, maintains the Cash Disbursement books, prepares correspondences and supervises the activities of the U.S. Embassy Credit Union.
5. Supervises the accounting system and is responsible for overall general upkeep of the USECU office and oversees the Union’s central record files.”

Loss of confidence is a valid ground for dismissal of an employee.^[10] In the case at bar, USECO proved that its loss of confidence on petitioner has a rational basis. The findings of the labor arbiter on this factual issue are supported by the evidence and we quote:

“The evidence of irregular and anomalous transactions in the lending operations of USECO is quite insurmountable. These were initially discovered by the Audit and Inventory Committee when it embarked on the examination of pertinent records, books of accounts, reports and other papers covering transactions for the period from November 1, 1991 up to March 31, 1993. Due to these irregularities and anomalies, not only were established policies of USECO violated but also the specter of huge losses looms inasmuch as there is no assurance that

outstanding loans granted to some forty-four (44) resigned members amounting to P1,047,015.45 may be collected.

Foremost among the policies that were ignored are those enumerated in USECO Circular No. 91-02, as amended by USECO Circular No. 92-03 (Exh. '1' and '2') specifying the following criteria before any loan may be extended:

- '1. Loans are available to all members regardless of grade, level, provided, the borrower-member's application is equivalent to 120% of his/her total gross annual salary, fringe benefits included, but not to exceed P120,000.00, provided further, that his/her pay check should not be less than 50% of his/her gross pay per pay period.
- '2. A borrower-member's savings (including his share capital) must be no less than 50% of the amount being loaned, prior to the submission of the loan application (with guarantor) or 75% (without guarantor).

X X X

- '4. Withdrawals will be authorized, provided that at least 50% of the loan balance (with guarantor) will remain in his/her savings deposit or at least 75% if without guarantor.
- '5. No new loans may be granted unless 50% of the loan has been paid.
- '6. Loan applications from over P50,000.00 to P120,000.00 must be pre-audited by the management staff, recommended for approval by the Credit Committee and must be approved by all members of the Board of Directors. Loan applications of P50,000.00 and below must be approved by the Credit Committee.

‘7. Loans shall be extended only to members who have subscribed and fully paid the required 100 shares or P1,000.00 share capital.’

“Based on the report of the Audit and Inventory Committee (Exh. “3”) as well as the report of the external auditor, J.D. Cayetano & Associates (Exh. “9”), there were six (6) cooperative members who were extended loans more than the allowed maximum of P120,000.00, namely, Luz Coronel — P278,500.00; Myrna Legaspi — P153,275.00; Primitivo Roldan — P336,855.00; Cipriano Beltran — P135,000.00; Guillermo Gorospe — P175,511.00; and Alejandro Lopez — P1,331,725.00. Of their total loan of P2,410,866.00, there is an excess of P1,690,866.00 over the maximum allowable loan limit. One of the established control measures provided in the USECO Circulars aforementioned is the pre-audit of loan applications by the complainant in her capacity as management assistant. Apparently, she failed in her duty as such.

“The audit reports also show that there are thirty-three (33) borrowers who were able to make out loans although their paid-in shares were less than 50% of the amount borrowed. Of the total loans of P3,985,830.00, the required paid-in shares should have been P1,992,916.00, but these thirty-three (33) member-borrowers only have a cumulative deposit of P584,362.00. Again, there appears to be a failure on the part of the complainant in the exercise of her pre-audit functions.

“Further, it appears from the audit reports that there are twenty-nine (29) loan applications with a total of P107,740.00 that were granted without the required approval from the majority of the Board of Directors. Certainly, as a pre-auditor the complainant may not pretend not to know this.

“More serious violation appears in the grant of loans to resigned employees who automatically became non-members upon their resignation. There are forty-four (44) of them with an aggregate loan of P1,047,015.45. Collecting this amount from said borrowers is quite difficult at this point.

“The irregularities, deficiencies, or non-conformity with established rules or policies that attended the abovementioned loans could not have escaped the complainant’s notice being the designated pre-audit personnel. Had she diligently stuck to her role as such, these questionable loans could not have been extended for she may deny the pre-audit of the subject loan applications for failure to comply with established policies. Or better still, she could always bring her observations to the board and recommend denial of said loan applications. The conclusion of this Arbitration branch is that nothing of this sort was done by the complainant.

“Complainant was also found on audit that she signed without authority cash payment advices (CPAs) on five (5) occasions, instead of the authorized signatories.

“There are cases of unrecorded loans such as that obtained by Adelaida Halasan on December 12, 1991 in the amount of P76,417.00; it was found out that the transaction was not posted in the ledger of Ms. Halasan and there was no record of subsequent payments. Another unrecorded loan is that made out in the name of Benedicto Batoy which stirs (sic) a mystery on the matter of how the loan was granted. We quote the Committee Report (Exh. “3”, p. 19), as follows:

‘This member resigned June 23, 1986. he was granted a loan amount to (sic) P5,000.00 on March 4, 1993 per Vou. no. C-131 and Check no. 651991 was issued (Exhibit 17).

‘A review of the application shows that it was not signed by Mr. Batoy. There were (sic) no approval from any of the Board of Directors. A name of the company (PCC Construction Company) was written on the bottom part of the application.

‘This particular transaction was recorded in the Cash Disbursement Book under the name of E. Ramos. However, this was not posted on E. Ramos’ ledger nor was

there a record of payment. There was no ledger made for Mr. Batoy during FY 1992 to post this transaction.

‘Further, review of pertinent records shows that Ch #651991 is missing on the file of paid checks. The bank statement, however, shows that the check was presented/cleared to the bank.’

“The Complainant was also found to have fabricated ledgers to conceal the correct balance of a borrower. The Audit report states:

‘During the time that audit is ongoing, it was discovered that Mr. Lopez has an additional two (2) sets of ledgers. The first ledger has a deposit balance of P56,920.00, loan balance of P585,800.00 as of March 4, 1993. The second ledger has a zero deposit and a loan balance of P835,620.00 for the same date.

‘When questioned, Beth Ramos and Luz Coronel admitted that the last two ledgers are the correct account balances of Mr. Lopez. The first ledger which was presented during the audit was a fabricated one. They confessed that they attempted to conceal the correct balance of Mr. Lopez by creating another ledger.

‘Further investigation revealed that USECO staff also fabricated the 1992 ledger of Mr. Lopez. A review of 1992 records shows the existence of two (2) ledgers. The first ledger has a deposit of P58,980.58 and loan balance of P623,800.00. The second ledger has a zero deposit and loan balance of P844,620.00 (Exh. ‘3’, p. 22).

Capping the foregoing irregularities abovestated is the finding of the external auditor of a shortage in the cash in bank in the amount of P360,964.61, not to mention overages in loans receivable in the sum of P2,275,544.38.” (Emphasis ours)

Petitioner’s explanation that the “loan practices” were made for the benefit of the borrowing members and not to defraud USECO cannot

exonerate her. As aptly pointed out by the Solicitor General, her unsound practices endangered the financial condition of USECO because of the possibility that the loans could not be collected at all.

We also do not agree that petitioner was denied due process before she was suspended and later dismissed. The records show that on June 4, 1993, petitioner was called by the USECO Board of Directors and confronted with the findings of the Audit and Inventory Committee showing the irregularities she committed. On June 17, 1993, she was asked to explain in writing these irregularities. The next day, petitioner submitted her written explanation. Thus, petitioner cannot complain that she did not understand the charges against her. She is educated and she immediately explained her side. Due process simply demands an opportunity to be heard and this opportunity was not denied her.

We also hold that the NLRC did not commit grave abuse of discretion in entertaining the second motion for reconsideration filed by USECO. Section 14 of the Rules of the NLRC provides:

“Sec. 14. Motions for Reconsideration.— Motions for reconsideration of any order, resolution or decision of the Commission shall not be entertained except when based on palpable or patent errors, provided that the motion is under oath and filed within ten (10) calendar days from receipt of the order, resolution or decision, with proof of service that a copy of the same has been furnished, within the reglementary period, the adverse party, and provided further that only one such motion from the same party shall be entertained.”

The NLRC initially reversed the ruling of the labor arbiter on the grounds that: (1) petitioner was denied procedural due process and (2) the criminal case for estafa filed against her has been dismissed by the Manila Prosecutor’s Office for insufficiency of evidence, particularly, for lack of proof that the USECO was damaged by the acts attributed to petitioner.

These are patent errors. As discussed above, petitioner was not denied due process. Similarly, it is a well established rule that the dismissal of the criminal case against an employee shall not

necessarily be a bar to his dismissal from employment on the ground of loss of trust and confidence.^[11] The NLRC corrected these patent errors when it granted private respondent's second motion for reconsideration. Section 14 of the NLRC rules cannot be construed as to prevent the NLRC from relieving itself from patent errors in order to render justice. Technical rules of procedure are not meant to frustrate but to facilitate justice. This norm finds more application in administrative agencies which were created to dispense justice with greater freedom from the strictures of technical rules of procedure.

WHEREFORE, premises considered, the Petition is dismissed for lack of merit. No costs.

SO ORDERED.

Melo, Mendoza and Martinez, JJ., concur.

[1] NLRC Case No. 00-10-6600-93.

[2] USECO is a duly registered cooperative which extends credit facility for the benefit of its members who are employees of the U.S. Embassy and its allied organizations, including USAID, USVA, USIS, Peace Corps, consular offices, etc.

[3] Docketed as NLRC-NCR CASE No. 00-10-06600-93.

[4] Rollo, pp. 37-49.

[5] Id., pp. 52-69; Penned by Commissioner Ireneo B. Bernardo and concurred in by Commissioners Lourdes C. Javier and Joaquin A. Tanodra.

[6] Rollo, pp. 73-74.

[7] Id., pp. 94-115.

[8] Id., pp. 77-86.

[9] Id., pp. 88-92.

[10] Article 282 of the Labor Code, as amended.

[11] Dole Philippines, Inc. vs. NLRC, 123 SCRA 673 (1983).