

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT
THIRD DIVISION**

**SOLIDBANK CORPORATION (now
METROBANK),**

Petitioner,

-versus-

**G.R. No. 151026
August 25, 2003**

**The Honorable COURT OF APPEALS
and GERARDO A. GARCIA,**

Respondents.

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DECISION

PUNO, J.:

Before us is a Petition for Review on *Certiorari* assailing the Decision dated July 24, 2001 of the Court of Appeals in CA-G.R. SP No. 58159, and its Resolution dated December 11, 2001, denying petitioner's Motion for Reconsideration.

Petitioner Solidbank is a domestic banking corporation organized and existing under and by virtue of Philippine laws. Private respondent Gerardo A. Garcia is its documentation clerk and signature control, the highest rank position of a check verifier, in its Tabora, Manila branch office. He was hired by petitioner on a probationary status on November 25, 1974, and became a regular employee on April 11, 1975. For fourteen of his seventeen years of service in the bank, he occupied the position of check verifier. As such, he is tasked to determine the genuineness and authenticity of all the checks that pass through him for verification. His duties, among others, include (1) examining signatures for possible forgery; (2) searching for any alteration in the checks including but not limited to the amount, date and name of payee; and (3) looking into the existence of counterfeits.

In April 1992, respondent Garcia, on separate occasions, cleared three different Solidbank checks, totaling five hundred sixty-six thousand pesos (P566,000.00). The checks, all under Account No. C/A 101-03484-0 in the name of one Go Ce Yam, turned out to be forgeries.

Petitioner conducted an investigation of the incident. In a letter dated May 14, 1992, it gave respondent Garcia seven days within which to explain why he should not be terminated from work with prejudice or be separated for cause for gross and serious misconduct, dishonesty, and commission of the crime of estafa through falsification. He was placed on preventive suspension pending the receipt and evaluation of his answer to the charges against him. He denied the charges and demanded a formal hearing.

Petitioner found respondent Garcia responsible for clearing the forged checks. It informed him on July 2, 1992 that his employment is being terminated for cause, effective June 1, 1992.

Aggrieved by petitioner's decision, respondent Garcia filed on July 13, 1992 a complaint for illegal dismissal against the petitioner and Mercedes Luy Dee (as Manager of the petitioner's Tabora branch) before the National Labor Relations Commission Arbitration branch. He alleged that he was charged with syndicated forgery and falsification without investigation and hearing, and the charge was not even established. He added that he was terminated without just cause and in violation of his right to due process. He prayed for

separation pay, backwages, moral damages, attorney's fees and the cost of suit.

Meanwhile, on November 26, 1992, an Information for Estafa through Falsification of Commercial Documents was filed against respondent Garcia involving the three forged checks before the Regional Trial Court of Manila, Branch 13. The case was docketed as Criminal Case No. 92-113112. On ground of reasonable doubt, the trial court acquitted him on January 21, 1998.^[1]

On September 9, 1994, the Labor Arbiter rendered a decision dismissing Garcia's complaint for lack of merit.^[2] Dissatisfied, respondent Garcia appealed to the National Labor Relations Commission on October 6, 1994. In CA No. 007803-94, the commission partially granted the appeal in a Resolution dated December 28, 1999. It ruled that Garcia was illegally dismissed but limited the award of backwages to only one year as it found that he "is not entirely faultless, as there was some sort of neglect on his part on the performance of his duties."^[3] The dispositive portion of the resolution reads:

WHEREFORE, premises considered, the Appeal is hereby GRANTED partially. Accordingly, the Decision appealed from is hereby MODIFIED to the effect that complainant-appellant is DECLARED illegally dismissed; that respondents-appellees are hereby directed to pay him separation pay of P189,000.00 and backwages of P136,500.00; and that his claims for damages and attorney's fees are DISMISSED for lack of merit.

SO ORDERED.^[4]

Petitioner sought relief with the Court of Appeals by filing a special civil action for *certiorari*. On July 24, 2001, the appellate court rendered the assailed Decision modifying the resolution of the NLRC. It granted respondent Garcia full backwages, thus:

This Court, however, does not agree with the NLRC when it limited the backwages to one (1) year only opining that private respondent 'was not entirely faultless.' It bears stressing that, as discussed above, the record is bereft of anything that would

support such a claim. Thus private respondent is entitled to full backwages, inclusive of allowances and other benefits from the time of his dismissal up to the finality of judgment.

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WHEREFORE, premises considered, the petition is denied for lack of merit. The assailed resolution of public respondent National Labor Relations Commission is AFFIRMED WITH MODIFICATION. Petitioner is hereby ordered to pay private respondent separation pay and backwages in accordance with the above discussion.

SO ORDERED.^[5]

On August 14, 2001, petitioner moved for reconsideration of the Decision, which motion the appellate court denied in a Resolution dated December 11, 2001.

Hence, the present course of action. Petitioner contends:

- I. The Honorable Court of Appeals committed a grave misapprehension of the facts and gross misapprehension of the evidence when it held that petitioner Solidbank failed to prove that the dismissal of the private respondent was for any just or authorized cause.
- II. The Honorable Court of Appeals committed a grave reversible error in not holding that private respondent's dismissal was valid and proper considering that he was grossly negligent in the performance of his duties as signature verifier of petitioner Solidbank.
- III. The Honorable Court of Appeals committed a grave reversible error when it went beyond the issues of the case resulting in an unwarranted increase in the original award of the National Labor Relations Commission that was never elevated on appeal or by *certiorari* by private respondent.

IV. Private respondent having been dismissed for a valid and authorized cause is not entitled to backwages, separation pay and other benefits.^[6]

The petition is partially meritorious.

Petitioner contends that respondent Garcia was grossly negligent in clearing the three forged checks considering that the alterations made on them were apparent and detectable by the naked eye or by touch. It also faults him for not following the standard operating procedure of subjecting checks amounting to one hundred thousand pesos (P100,000.00) or more to the check verifying lamp machine. Considering his expertise which he acquired through fourteen long years of service, petitioner, avers that he should have been more circumspect in clearing the check.

These contentions fail to impress.

We cannot subscribe to petitioner's assertion that the alterations made in the checks were apparent and detectable by the naked eye or by touch. If they were so, then the other bank employees, through whom the checks passed, would have noticed and called respondent Garcia's attention to them. The records show that petitioner's tellers and bookkeepers did not notice the alterations. So did its branch manager and assistant branch manager, both of whom are experienced and knowledgeable in the process of check verification.

Apropos on the issue is the finding of the Regional Trial Court in its Decision in Criminal Case No. 92-113112, where respondent Garcia was acquitted, viz.:

At the time of the cross-examination, which was in 1997, the accused (Garcia) acknowledged the existence of irregularities in the checks as his attention was drawn to them by the prosecution. But the passage of time had left its mark on the condition of the check. He said that at present, anybody could notice that the checks were tampered, but at the time the checks passed through clearing, and that was in 1992, nobody had noticed the defects (TSN, September 26, 1997 at 11).

A perusal of the records shows that this was so. The branch Manager Mercedes Dee participated in the examination of at least Exhibit A and found nothing wrong with it. That was why she affixed her initial to it. The assistant branch manager inspected all the three checks and he, too, saw no reason to doubt their validity. And like the accused, (he) had the training of a signature verifier (TSN, January 15, 1997 at 35).^[7]

There is likewise paucity of evidence to support petitioner's contention that respondent Garcia was negligent in not subjecting the checks to the verifying lamp machine. On this issue, both the Court of Appeals and the NLRC found that petitioner failed to substantiate its charge with any clear and convincing evidence. As the appellate court observed, "(t)he alleged omission could not possibly be inferred from the fact of non-detection of the alterations since petitioner also failed to establish by sufficient proof that the alterations and forgeries could have been detected if the checks were subjected to the said machine."^[8]

All told, we hold that the evidence adduced by the petitioner is far from substantial. Petitioner failed to justify the dismissal of respondent Garcia. In termination cases, the burden of proof rests upon the employer to show that the dismissal is for just and valid cause;^[9] failure to do so would necessarily mean that the dismissal was illegal.^[10]

Petitioner also faults the award of full backwages by the Court of Appeals. It claims that the appellate court committed a reversible error in awarding full backwages to respondent Garcia despite his failure to controvert the NLRC's judgment limiting the award of backwages to only one year. It argues that since he did not file an appeal or a petition for *certiorari*, he is bound by the principle of finality of judgment.

We agree. The well-settled rule with respect to civil cases is that a party who has not appealed from a decision cannot seek any relief other than what is provided in the judgment appealed from.^[11] An appellee who has himself not appealed may not obtain from the appellate court any affirmative relief other than the ones granted in the decision of the court below.^[12] There are, however, exceptions to

the rule as we held in *De la Cruz vs. NLRC*,^[13] *Labor vs. NLRC*,^[14] and *St. Michael's Institute vs. Carmelita A. Santos*.^[15] Nonetheless, the facts in these exceptional cases are not on all fours with the petition at bar, hence, their inapplicability.

In the cited cases, *supra*, either the Labor Arbiter or the NLRC totally failed to award any backwages despite their finding that the dismissed employees therein were faultless. When those illegally dismissed employees did not contest this omission, we ruled that their substantive right to backwages cannot be defeated by mere procedural lapse. In the case at bar, the NLRC granted respondent Garcia backwages but limited it to a period of one year after it found that "there was some sort of neglect on his part in the performance of his duties."^[16] Given this finding, his failure to contest the limited award is fatal. It had the effect of an admission that he was not entirely fault-free in carrying out his duties and that he was accepting the one-year award, and relinquishing his claim for full backwages, due to such neglect. The ruling therefore of the NLRC that he was entitled to only a year of backwages due to some neglect became binding and final to him and can no longer be modified.

This brings us to the reliefs that respondent Garcia is entitled to and their extent. As a rule, employees who are illegally dismissed are entitled to full backwages and reinstatement to their former positions without loss of seniority rights.^[17] There are instances, however, where reinstatement is no longer viable as where the business of the employer has closed, or where the relations between the employer and the employee have been so severely strained that it is not advisable to order reinstatement, or where the employee decides not to be reinstated.^[18] As respondent Garcia explicitly prayed for an award of separation pay in lieu of reinstatement, he forecloses reinstatement as a relief by implication.^[19] Consequently, he is entitled to separation pay equivalent to one month pay for every year of service, from the time of his illegal dismissal up to the finality of this judgment, as an alternative to reinstatement.^[20] With respect to his backwages, he shall be entitled to an amount equivalent to only one year as discussed above.

IN VIEW WHEREOF, the Petition is partially granted. The assailed Decision and Resolution of the Court of Appeals are modified. The

Resolution, dated December 28, 1999, of the NLRC in CA No. 007803-94 is reinstated.

SO ORDERED.

**Panganiban and Sandoval-Gutierrez, JJ., concur.
Corona and Carpio Morales, JJ., on official leave.**

- [1] The dispositive portion of the Decision states:
WHEREFORE, on grounds of reasonable doubt, the accused Gerardo A. Garcia is acquitted. His bail is cancelled and released.
SO ORDERED.
- [2] Decision, NLRC NCR Case No. 00-07-03794-92, p. 10; Rollo, p. 92.
- [3] Decision, CA No. 007803-94, p. 13; Id., p. 128.
- [4] Id., p. 14; Id., p. 129.
- [5] Decision, CA-G.R. SP No. 58159, pp. 7–8; Id., pp. 14–15.
- [6] Petition, p. 11; Id., p. 31.
- [7] Decision, Criminal Case No. 92-113112, p. 5; Id., p. 113.
- [8] Decision, CA-G.R. SP No. 58159, p. 6; Id., p. 14.
- [9] Article 277 (b), Labor Code of the Philippines.
- [10] Pascua vs. NLRC, 287 SCRA 554 (1998).
- [11] Buot vs. Court of Appeals, 357 SCRA 846 (2001).
- [12] Filflex Industrial & Manufacturing Corp. vs. NLRC, 286 SCRA 245 (1996).
- [13] 299 SCRA 1 (1998).
- [14] 248 SCRA 205 (1995).
- [15] 371 SCRA 383 (2001).
- [16] Resolution, CA No. 007803-94, pp. 13–14; Rollo, pp. 128–129.
- [17] Article 279, Labor Code of the Philippines.
- [18] Nagusara vs. NLRC, 290 SCRA 245 (1998).
- [19] Capili vs. NLRC, 270 SCRA 488 (1997).
- [20] Rutaquio vs. NLRC, 317 SCRA 1 (1999).