



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

ROLANDO DS. TORRES,
 Petitioner,

G.R. No. 184520

Present:

SERENO, *C.J.*,
Chairperson,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 VILLARAMA, JR., and
 REYES, *JJ.*

- versus -

**RURAL BANK OF SAN JUAN,
 INC., ANDRES CANO CHUA,
 JOBEL GO CHUA, JESUS CANO
 CHUA, MEINRADO DALISAY,
 JOSE MANALANSAN III,
 OFELIA GINABE and NATY
 ASTRERO,**

Promulgated:

Respondents.

MAR 13 2013

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DECISION

REYES, J.:

This Petition for Review on *Certiorari*,¹ under Rule 45 of the Rules of Court, seeks to reverse and set aside the Decision² dated February 21, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 94690 dismissing the complaint for illegal dismissal filed by petitioner Rolando DS. Torres (petitioner) against respondent Rural Bank of San Juan, Inc. (RBSJI) and its officers who are the herein individual respondents, namely: Andres Cano Chua (Andres), Jobel Go Chua (Jobel), Jesus Cano Chua (Jesus), Meinrado

¹ *Rollo*, pp. 9-26.

² Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Jose C. Reyes, Jr. and Myrna Dimaranan Vidal, concurring; id. at 28-42.

Dalisay, Jose Manalansan III (Jose), Ofelia Ginabe (Ofelia) and Naty Astrero (collectively referred to as respondents).³

Likewise assailed is the CA Resolution⁴ dated June 3, 2008 which denied reconsideration.

The antecedents

Culled from the rulings of the labor tribunals and the appellate court are the ensuing factual milieu:⁵

The petitioner was initially hired by RBSJI as Personnel and Marketing Manager in 1991. After a six-month probationary period and finding his performance to be satisfactory, RBSJI renewed his employment for the same post to a permanent/regular status. In June 1996, the petitioner was offered the position of Vice-President for RBSJI's newly created department, Allied Business Ventures. He accepted the offer and concomitantly relinquished his post. The vacancy created was filled by respondent Jobel who temporarily held the position concurrently as a Corporate Planning and Human Resources Development Head.

On September 24, 1996, the petitioner was temporarily assigned as the manager of RBSJI's N. Domingo branch in view of the resignation of Jacinto Figueroa (Jacinto).

On September 27, 1996, Jacinto requested the petitioner to sign a standard employment clearance pertaining to his accountabilities with RBSJI. When the petitioner declined his request, Jacinto threw a fit and shouted foul invectives. To pacify him, the petitioner bargained to issue a clearance but only for Jacinto's paid cash advances and salary loan.

About seven months later or on April 17, 1997, respondent Jesus issued a memorandum to the petitioner requiring him to explain why no administrative action should be imposed on him for his unauthorized issuance of a clearance to Jacinto whose accountabilities were yet to be audited. Jacinto was later found to have unliquidated cash advances and was responsible for a questionable transaction involving ₱11 million for which RBSJI is being sued by a certain Actives Builders Manufacturing

³ Individual respondents are the President and General Manager, Corporate Planning and Human Resources Head, Consultant, Treasury Department Head, Vice-President for MISSG, Consultant to the Human Resources Department and Human Resources Supervisor, respectively, of RBSJI; *id.* at 29.

⁴ *Id.* at 43-44.

⁵ Culled from the Labor Arbiter Decision dated November 27, 1998, *id.* at 62-79; National Labor Relations Commission Decisions dated April 14, 2000 and March 3, 2006, *id.* at 118-127, 88-94; and CA Decision dated February 21, 2008, *id.* at 28-42.

Corporation. The memorandum stressed that the clearance petitioner issued effectively barred RBSJI from running after Jacinto.⁶

The petitioner submitted his explanation on the same day clarifying that the clearance was limited only to Jacinto's paid cash advances and salary loan based on the receipts presented by Lily Aguilar (Lily), the cashier of N. Domingo branch. He emphasized that he had no foreknowledge nor was he forewarned of Jacinto's unliquidated cash advances and questionable transactions and that the clearance did not extend to those matters.⁷

After conducting an investigation, RBSJI's Human Resources Department recommended the petitioner's termination from employment for the following reasons, to wit:

1. The issuance of clearance to Mr. Jacinto Figueroa by the [petitioner] have been prejudicial to the Bank considering that damages [sic] found caused by Mr. Figueroa during his stay with the bank;
2. [The petitioner] is not in any authority to issue said clearance which is a violation of the Company Code of Conduct and Discipline under Category B Grave Offense No. 1 (falsifying or misrepresenting persons or other company records, documents or papers) equivalent to termination; [and]
3. The nature of his participation in the issuance of the said clearance could be a reasonable ground for the Management to believe that he is unworthy of the trust and confidence demanded by his position which is also a ground for termination under Article [282] of the Labor Code.⁸

On May 19, 1997, RBSJI's Board of Directors adopted the above recommendation and issued Resolution No. 97-102 terminating the petitioner from employment, the import of which was communicated to him in a Memorandum dated May 30, 1997.⁹

Feeling aggrieved, the petitioner filed the herein complaint for illegal dismissal, illegal deduction, non-payment of service incentive, leave pay and retirement benefits.¹⁰ The petitioner averred that the supposed loss of trust and confidence on him was a sham as it is in fact the calculated result of the respondents' dubious plot to conveniently oust him from RBSJI.

⁶ Id. at 30-31.

⁷ Id. at 31-32.

⁸ Id. at 68.

⁹ Id. at 67-69, 125.

¹⁰ Docketed as NLRC NCR Case No. 00-07-04850-97.

He claimed that he was deceived to accept a Vice-President position, which turned out to be a mere clerical and menial work, so the respondents can install Jobel, the son of a major stockholder of RBSJI, as Personnel and Marketing Manager. The plot to oust the petitioner allegedly began in 1996 when Jobel annexed the Personnel and Marketing Departments to the Business Development and Corporate Planning Department thus usurping the functions of and displacing the petitioner, who was put on a floating status and stripped of managerial privileges and allowances.

The petitioner further alleged that he was cunningly assigned at N. Domingo branch so he can be implicated in the anomalous transaction perpetrated by Jacinto. He narrated that on September 27, 1996, the officers of RBSJI, namely: Jobel, Andres, Jose and Ofelia, were actually at the N. Domingo branch but they all suspiciously left him to face the predicament caused by Jacinto.

He recounted that the next day he was assigned back at the Tarlac extension office and thereafter repeatedly harassed and forced to resign. He tolerated such treatment and pleaded that he be allowed to at least reach his retirement age. On March 7, 1996, he wrote a letter to George Cano Chua (George) expressing his detestation of how the “new guys” are dominating the operations of the company by destroying the image of pioneer employees, like him, who have worked hard for the good image and market acceptability of RBSJI. The petitioner requested for his transfer to the operations or marketing department. His request was, however, not acted upon.

The petitioner claimed that on March 19, 1997, respondent Jesus verbally terminated him from employment but he later on retracted the same and instead asked the petitioner to tender a resignation letter. The petitioner refused. A month thereafter, the petitioner received the memorandum asking him to explain why he cleared Jacinto of financial accountabilities and thereafter another memorandum terminating him from employment.

For their part, the respondents maintained that the petitioner was validly dismissed for loss of trust and confidence precipitated by his unauthorized issuance of a financial accountability clearance sans audit to a resigned employee. They averred that a copy of the clearance mysteriously disappeared from RBSJI’s records hence, the petitioner’s claim that it pertained only to Jacinto’s paid cash advances and salary loan cannot stand for being uncorroborated.

Attempts at an amicable settlement were made but the same proved futile hence, the Labor Arbiter¹¹ (LA) proceeded to rule on the complaint.

Ruling of LA

In its Decision¹² dated November 27, 1998, the LA sustained the claims of the petitioner as against the factually unsubstantiated allegation of loss of trust and confidence propounded by the respondents. The LA observed that the petitioner's selfless dedication to his job and efforts to achieve RBSJI's stability, which the respondents failed to dispute, negate any finding of bad faith on his part when he issued a clearance of accountabilities in favor of Jacinto. As such, the said act cannot serve as a valid and justifiable ground for the respondents to lose trust and confidence in him.

The LA further held that the failure of both parties to present a copy of the subject clearance amidst the petitioner's explanation that it did not absolutely release Jacinto from liability, should work against the respondents since it is the proof that will provide basis for their supposed loss of trust and confidence.

The LA upheld the petitioner's contention that the loss of trust and confidence in him was indeed a mere afterthought to justify the respondents' premeditated plan to ease him out of RBSJI. The LA's conclusion was premised on the convergence of the following circumstances: (1) the petitioner's stint from 1991-1996 was not marred with any controversy or complaint regarding his performance; (2) when Jobel joined RBSJI in the latter part of 1996, he took over the department led by the petitioner thus placing the latter in a floating status; and (3) the petitioner's temporary transfer to the N. Domingo branch was designed to deliberately put him in a bind and blame him on whatever course of action he may take to resolve the same.

Accordingly, the petitioner was found to have been illegally dismissed and thus accorded the following reliefs in the decretal portion of the LA Decision, *viz*:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondent Bank and individual respondents, to reinstate [the petitioner] to his previous or equivalent position, without loss of seniority rights and other benefits and privileges appurtenant [sic] to him, and to pay [the petitioner] the following:

¹¹ Labor Arbiter Aliman D. Mangandog.

¹² *Rollo*, pp. 62-79.

1. [The petitioner's] partial backwages and other emoluments in the form of allowances, as gasoline, maintenance, representation, uniform and membership allowances, from the time of his dismissal up to his actual date of reinstatement, which as of this date amount to:

Backwages (Partial)	[P]244,800.00
Gasoline Allowances	63,000.00
Maintenance Allowance	45,000.00
Representation Allowance	54,000.00
Membership Allowance	12,000.00
Uniform Allowance	<u>8,000.00</u>
Total	[P]426,800.00

2. [The petitioner's] 13th month pay from the time of his dismissal up to actual date of reinstatement, which as of this date amounts to Twenty[-]Seven Thousand Two Hundred ([P]27,200.00) Pesos;
3. Moral and exemplary damages in the amount of Fifty Thousand ([P]50,000.00) Pesos each, respectively; and
4. Attorney's fees amounting to ten percent (10%) of the total award, specifically amounting to Fifty[-]Five Thousand Nine Hundred Twenty[-]Three Pesos and Eight ([P]55,923.08) Centavos.

All other claims are hereby Dismissed for lack of merit.

SO ORDERED.¹³

Ruling of the National Labor Relations Commission (NLRC)

In its Resolution¹⁴ dated April 14, 2000, the NLRC disagreed with the LA's conclusion and opined that it was anchored on irrelevant matters such as the petitioner's performance and the preferential treatment given to relatives of RBSJI's stockholders. The NLRC held that the legality of the petitioner's dismissal must be based on an appreciation of the facts and the proof directly related to the offense charged, which NLRC found to have weighed heavily in favor of the respondents.

The NLRC remarked that the petitioner was indisputably not authorized to issue the clearance. Also, the tantrums and furious attitude exhibited by Jacinto are not valid reasons to submit to his demands. The fact that the N. Domingo branch had been sued civilly on February 25, 1997 for a tax scam while under Jacinto's leadership, should have alerted the petitioner into issuing him a clearance. The action taken by the petitioner lacked the prudence expected from a man of his stature thus prejudicing the

¹³ Id. at 78-79.

¹⁴ Id. at 118-127. The appeal before the NLRC was docketed as NLRC NCR CA No. 019842-99.

interests of RBSJI. Accordingly, the dispositive portion of the decision reads:

WHEREFORE, the decision appealed from is hereby REVERSED and SET ASIDE. Let a new one [sic] entered DISMISSING the instant case for lack of merit. However, respondent should pay [the petitioner] his proportionate 13th month pay for 1997 as he was dismissed on May 30, 1997.

SO ORDERED.¹⁵

The petitioner sought reconsideration¹⁶ which was admitted by the NLRC in an Order dated September 30, 2005. From such Order, the respondents filed a motion for reconsideration on the ground that the petitioner failed to present a copy of his purported motion bearing the requisite proof of filing.¹⁷

Traversing both motions, the NLRC issued its Decision¹⁸ dated March 3, 2006: (1) granting the petitioner's plea for the reconsideration of its Resolution dated April 14, 2000 thus effectively reversing and nullifying the same; and (2) denying the respondents' motion for reconsideration of the Order dated September 30, 2005.

Anent the first disposition, the NLRC accorded weight to the explanations proffered by the petitioner that the clearance issued to Jacinto was limited only to his paid cash advances and salary loan. The NLRC further held that the offense imputed to the petitioner is not covered by Category B, Grave Offense No. 1 of RBSJI's Code of Conduct and Discipline as it does not appear that he falsified or misrepresented personal or other company records, documents or papers.¹⁹

Taking an entirely opposite stance, the NLRC declared that the clearance issued by the petitioner did not prejudice RBSJI's interest as it was limited in scope and did not entirely clear Jacinto from all his financial accountabilities. Also, the petitioner was only "a day old" at the N. Domingo branch and thus he cannot be reasonably expected to be aware of the misdeeds purportedly committed by Jacinto.²⁰

For the foregoing reasons, the NLRC reversed its earlier ruling and reinstated the LA's Decision dated November 27, 1998, thus:

¹⁵ Id. at 126-127.

¹⁶ Id. at 45-60.

¹⁷ Id. at 88-89.

¹⁸ Id. at 88-94.

¹⁹ Id. at 91-93.

²⁰ Id.

WHEREFORE, the Arbiter's decision of 27 November 1998 is hereby AFFIRMED and REINSTATED.

Accordingly, the Resolution of 14 April 2000 is REVERSED and SET ASIDE.

Finally, [the respondents'] Motion for Reconsideration dated 2 November 2005 is DENIED for lack of merit.

SO ORDERED.²¹

Ruling of the CA

The respondents sought recourse with the CA,²² which in its Decision²³ dated February 21, 2008 reversed and set aside the NLRC Decision dated March 3, 2006 and ruled that the petitioner was dismissed for a just cause. The appellate court articulated that as the Acting Manager of RBSJI's N. Domingo branch, the petitioner held a highly sensitive and critical position which entailed the conscientious observance of company procedures. Not only was he unauthorized to issue the clearance, he also failed to exercise prudence in clearing Jacinto of his accountabilities given the fact that the same were yet to be audited. Such omission financially prejudiced RBSJI and it amounted to gross negligence and incompetence sufficient to sow in his employer the seed of mistrust and loss of confidence.²⁴ The decretal portion of the CA Decision thus reads:

IN VIEW OF ALL THE FOREGOING, the petition is **GRANTED**. The March 03, 2006 Decision of the National Labor Relations Commission is **REVERSED** and **SET ASIDE**. The April 14, 2000 Decision of the National Labor Relations Commission is hereby **REINSTATED**. No costs.

SO ORDERED.²⁵

The petitioner moved for reconsideration²⁶ but the motion was denied in the CA Resolution²⁷ dated June 3, 2008. Hence, the present appeal.

²¹ Id. at 93-94.

²² The petitioners' petition for *certiorari* was docketed as CA-G.R. SP. No. 94690.

²³ *Rollo*, pp. 28-42.

²⁴ Id. at 37-39.

²⁵ Id. at 40-41.

²⁶ Id. at 80-87.

²⁷ Id. at 43-44.

Arguments of the parties

The petitioner avers that the respondents' claim of loss of trust and confidence is not worthy of credence since they failed to present a copy of the clearance purportedly showing that he cleared Jacinto of all his financial accountabilities and not merely as to his paid cash advances and salary loan. He points out that RBSJI must be in custody thereof considering that it is a vital official record.

The petitioner insists that the alleged loss of trust and confidence in him is a mere subterfuge to cover the respondents' ploy to oust him out of RBSJI. He asserts that the seven-month gap between the date when he issued the subject clearance and the date when he was sent a memorandum for the said act shows that the respondents' supposed loss of trust and confidence was a mere afterthought.²⁸

On the other hand, the respondents invoke the ratiocinations of the CA that they were justified in losing the trust and confidence reposed on the petitioner since he failed to exercise the degree of care expected of his managerial position. They reiterate the petitioner's admission that no audit was yet conducted as to the accountabilities of Jacinto when he issued the clearance.

The respondents further assert that as a former Personnel Manager, the petitioner is well-aware of RBSJI's policy that before a resigned employee can be cleared of accountabilities, he must be first examined or audited. However, the petitioner opted to violate this policy and yield to Jacinto's tantrums.²⁹

The above arguments yield the focal issue of whether or not the petitioner was validly dismissed from employment.

The Court's Ruling

The petition is impressed with merit.

Settled is the rule that when supported by substantial evidence, the findings of fact of the CA are conclusive and binding on the parties and are not reviewable by this Court.³⁰ As such, only errors of law are reviewed by the Court in petitions for review of CA decisions. By way of exception,

²⁸ Id. at 9-26.

²⁹ Id. at 97-117.

³⁰ *Lynvil Fishing Enterprises, Inc. v. Ariola*, G.R. No. 181974, February 1, 2012, 664 SCRA 679, 690.

however, the Court will exercise its equity jurisdiction and re-evaluate, review and re-examine the factual findings of the CA when, as in this case, the same are contradicting³¹ with the findings of the labor tribunals.

The respondents failed to prove that the petitioner was dismissed for a just cause.

As provided in Article 282³² of the Labor Code and as firmly entrenched in jurisprudence,³³ an employer has the right to dismiss an employee by reason of willful breach of the trust and confidence reposed in him.

To temper the exercise of such prerogative and to reconcile the same with the employee's Constitutional guarantee of security of tenure, the law imposes the burden of proof upon the employer to show that the dismissal of the employee is for just cause failing which would mean that the dismissal is not justified. Proof beyond reasonable doubt is not necessary but the factual basis for the dismissal must be clearly and convincingly established.³⁴

Further, the law mandates that before validity can be accorded to a dismissal premised on loss of trust and confidence, two requisites must concur, *viz*: (1) the employee concerned must be holding a position of trust; and (2) the loss of trust must be based on willful breach of trust founded on clearly established facts.³⁵

There is no arguing that the petitioner was part of the upper echelons of RBSJI's management from whom greater fidelity to trust is expected. At the time when he committed the act which allegedly led to the loss of RBSJI's trust and confidence in him, he was the Acting Manager of N. Domingo branch. It was part of the petitioner's responsibilities to effect a smooth turn-over of pending transactions and to sign and approve instructions within the limits assigned to the position under existing

³¹ *Lima Land, Inc. v. Cuevas*, G.R. No. 169523, June 16, 2010, 621 SCRA 36, 41-42.

³² Article 282. TERMINATION BY EMPLOYER.—An employer may terminate an employment for any of the following causes:

(a) Serious misconduct or willful disobedience by the employee of the lawful orders of his employer or representative in connection with his work;

(b) Gross and habitual neglect by the employee of his duties;

(c) Fraud or willful breach by the employee of the trust reposed in him by his employer or duly authorized representative;

(d) Commission of a crime or offense by the employee against the person of his employer or any immediate member of his family or his duly authorized representative; and

(e) Other causes analogous to the foregoing. (Emphasis ours)

³³ *Prudential Guarantee and Assurance Employee Labor Union v. NLRC*, G.R. No. 185335, June 13, 2012, 672 SCRA 375, 386.

³⁴ *Jerusalem v. Keppel Monte Bank*, G.R. No. 169564, April 6, 2011, 647 SCRA 313, 323.

³⁵ *Supra* note 33, at 387, citing *Bristol Myers Squibb (Phils.), Inc. v. Baban*, G.R. No. 167449, December 17, 2008, 574 SCRA 198, 205-206.

regulations.³⁶ Prior thereto and ever since he was employed, he has occupied positions that entail the power or prerogative to dictate management policies – as Personnel and Marketing Manager and thereafter as Vice-President.

The presence of the first requisite is thus certain. Anent the second requisite, the Court finds that the respondents failed to meet their burden of proving that the petitioner's dismissal was for a just cause.

The act alleged to have caused the loss of trust and confidence of the respondents in the petitioner was his issuance, without prior authority and audit, of a clearance to Jacinto who turned out to be still liable for unpaid cash advances and for an ₱11-million fraudulent transaction that exposed RBSJI to suit. According to the respondents, the clearance barred RBSJI from running after Jacinto. The records are, however, barren of any evidence in support of these claims.

As correctly argued by the petitioner and as above set forth, the *onus* of submitting a copy of the clearance allegedly exonerating Jacinto from all his accountabilities fell on the respondents. It was the single and absolute evidence of the petitioner's act that purportedly kindled the respondents' loss of trust. Without it, the respondents' allegation of loss of trust and confidence has no leg to stand on and must thus be rejected. Moreover, one can reasonably expect that a copy of the clearance, an essential personnel document, is with the respondents. Their failure to present it and the lack of explanation for such failure or the document's unavailability props up the presumption that its contents are unfavorable to the respondents' assertions.

At any rate, the absence of the clearance upon which the contradicting claims of the parties could ideally be resolved, should work against the respondents. With only sworn pleadings as proof of their opposite claims on the true contents of the clearance, the Court is bound to apply the principle that the scales of justice should be tilted in favor of labor in case of doubt in the evidence presented.³⁷

RBSJI also failed to substantiate its claim that the petitioner's act estopped them from pursuing Jacinto for his standing obligations. There is no proof that RBSJI attempted or at least considered to demand from Jacinto the payment of his unpaid cash advances. Neither was RBSJI able to show that it filed a civil or criminal suit against Jacinto to make him responsible for the alleged fraud. There is thus no factual basis for RBSJI's allegation that it incurred damages or was financially prejudiced by the clearance issued by the petitioner.

³⁶ *Rollo*, p. 121.

³⁷ *Supra* note 33, at 394.

More importantly, the complained act of the petitioner did not evince intentional breach of the respondents' trust and confidence. Neither was the petitioner grossly negligent or unjustified in pursuing the course of action he took.

It must be pointed out that the petitioner was caught in the quandary of signing on the spot a standard employment clearance for the furious Jacinto sans any information on his outstanding accountabilities, and refusing to so sign but risk alarming or scandalizing RBSJI, its employees and clients. Contrary to the respondents' allegation, the petitioner did not concede to Jacinto's demands. He was, in fact, able to equalize two equally undesirable options by bargaining to instead clear Jacinto only of his settled financial obligations after proper verification with branch cashier Lily. It was only after Lily confirmed Jacinto's recorded payments that the petitioner signed the clearance. The absence of an audit was precisely what impelled the petitioner to decline signing a standard employment clearance to Jacinto and instead issue a different one pertaining only to his paid accountabilities.

Under these circumstances, it cannot be concluded that the petitioner was in any way prompted by malicious motive in issuing the clearance. He was also able to ensure that RBSJI's interests are protected and that Jacinto is pacified. He did what any person placed in a similar situation can prudently do. He was able to competently evaluate and control Jacinto's demands and thus prevent compromising RBSJI's image, employees and clients to an alarming scene.

The Court has repeatedly emphasized that the act that breached the trust must be willful such that it was done intentionally, knowingly, and purposely, without justifiable excuse, as distinguished from an act done carelessly, thoughtlessly, heedlessly or inadvertently.³⁸ The conditions under which the clearance was issued exclude any finding of deliberate or conscious effort on the part of the petitioner to prejudice his employer.

Also, the petitioner did not commit an irregular or prohibited act. He did not falsify or misrepresent any company record as it was officially confirmed by Lily that the items covered by the clearance were truly settled by Jacinto. Hence, the respondents had no factual basis in declaring that the petitioner violated Category B Grave Offense No. 1 of the Company Code of Conduct and Discipline.

³⁸ *The Coca-Cola Export Corporation v. Gacayan*, G.R. No. 149433, June 22, 2011, 652 SCRA 463, 471, citing *Tiu and/or Conti Pawnshop v. NLRC*, G.R. No. 83433, November 12, 1992, 215 SCRA 540, 547.

The respondents cannot capitalize on the petitioner's lack of authority to issue a clearance to resigned employees. *First*, it remains but an unsubstantiated allegation despite the several opportunities for them in the proceedings below to show, through bank documents, that the petitioner is not among those officers so authorized. *Second*, it is the Court's considered view that by virtue of the petitioner's stature in respondent bank, it was well-within his discretion to sign or certify the truthfulness of facts as they appear in RBSJI's records. Here, the records of RBSJI cashier Lily clearly showed that Jacinto paid the cash advances and salary loan covered by the clearance issued by the petitioner.

Lastly, the seven-month gap between the clearance incident and the April 17, 1997 memorandum asking the petitioner to explain his action is too lengthy to be ignored. It likewise remains uncontroverted that during such period, respondent Jesus verbally terminated the petitioner only to recall the same and instead ask the latter to tender a resignation letter. When the petitioner refused, he was sent the memorandum questioning his issuance of a clearance to Jacinto seven months earlier. The confluence of these undisputed circumstances supports the inference that the clearance incident was a mere afterthought used to gain ground for the petitioner's dismissal.

Loss of trust and confidence as a ground for dismissal has never been intended to afford an occasion for abuse because of its subjective nature. It should not be used as a subterfuge for causes which are illegal, improper and unjustified. It must be genuine, not a mere afterthought intended to justify an earlier action taken in bad faith.³⁹

All told, the unsubstantiated claims of the respondents fall short of the standard proof required for valid termination of employment. They failed to clearly and convincingly establish that the petitioner's act of issuing a clearance to Jacinto rendered him unfit to continue working for RBSJI. The petitioner was illegally dismissed from employment and is entitled to back wages, to be computed from the date he was illegally dismissed until the finality of this decision.⁴⁰

The disposition of the case made by the LA in its Decision dated November 27, 1998, as affirmed by the NLRC in its Decision dated March 6, 2006, is most in accord with the above disquisitions hence, must be reinstated. However, the monetary awards therein should be clarified.

³⁹ Supra note 31, at 47-48.

⁴⁰ Supra note 33, at 398.

The petitioner is entitled to separation pay in lieu of reinstatement and his back wages shall earn legal interest.

In accordance with current jurisprudence, the award of back wages shall earn legal interest at the rate of six percent (6%) *per annum* from the date of the petitioner's illegal dismissal until the finality of this decision.⁴¹ Thereafter, it shall earn 12% legal interest until fully paid⁴² in accordance with the guidelines in *Eastern Shipping Lines, Inc., v. Court of Appeals*.⁴³

In addition to his back wages, the petitioner is also entitled to separation pay. It cannot be gainsaid that animosity and antagonism have been brewing between the parties since the petitioner was gradually eased out of key positions in RBSJI and to reinstate him will only intensify their hostile working atmosphere.⁴⁴ Thus, based on strained relations, separation pay equivalent to one (1) month salary for every year of service, with a fraction of a year of at least six (6) months to be considered as one (1) whole year, should be awarded in lieu of reinstatement, to be computed from date of his engagement by RBSJI up to the finality of this decision.⁴⁵

The award of separation pay in case of strained relations is more beneficial to both parties in that it liberates the employee from what could be a highly oppressive work environment in as much as it releases the employer from the grossly unpalatable obligation of maintaining in its employ a worker it could no longer trust.⁴⁶

The award of moral and exemplary damages is not warranted.

In *M+W Zander Philippines, Inc. v. Enriquez*,⁴⁷ the Court decreed that illegal dismissal, by itself alone, does not entitle the dismissed employee to moral damages; additional facts must be pleaded and proven to warrant the grant of moral damages, thus:

[M]oral damages are recoverable only where the dismissal of the employee was attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy. Such an award cannot be justified solely upon

⁴¹ See *Aliling v. Feliciano*, G.R. No. 185829, April 25, 2012, 671 SCRA 186, 221.

⁴² See *Sessions Delights Ice Cream and Fast Foods v. CA (Sixth Division)*, G.R. No. 172149, February 8, 2010, 612 SCRA 10, 26-27.

⁴³ G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95-97.

⁴⁴ *Bank of Lubao, Inc. v. Manabat*, G.R. No. 188722, February 1, 2012, 664 SCRA 772, 780-781.

⁴⁵ *Supra* note 41, at 215.

⁴⁶ *Id.* at 214.

⁴⁷ G.R. No. 169173, June 5, 2009, 588 SCRA 590.

the premise that the employer fired his employee without just cause or due process. Additional facts must be pleaded and proven to warrant the grant of moral damages under the Civil Code, *i.e.*, that the act of dismissal was attended by bad faith or fraud, or constituted an act oppressive to labor, or was done in a manner contrary to morals, good customs or public policy; and, of course, that social humiliation, wounded feelings, grave anxiety, and similar injury resulted therefrom.⁴⁸ (Citations omitted)

Bad faith does not connote bad judgment or negligence; it imports a dishonest purpose or some moral obliquity and conscious doing of wrong; it means breach of a known duty through some motive or interest or ill will; it partakes of the nature of fraud.⁴⁹

Here, the petitioner failed to prove that his dismissal was attended by explicit oppressive, humiliating or demeaning acts. The following events merely sketch the struggle for power within the upper management of RBSJI between the “old guys” and the “new guys”; they do not convincingly prove that the respondents schemed to gradually ease the petitioner out, *viz.*: (1) his promotion as Vice-President; (2) his replacement by Jobel as Personnel and Marketing Manager; (2) his designation as Acting Manager of N. Domingo branch and the recall thereof on the very next day; (3) the presence of Andres, Jose and Ofelia at the N. Domingo branch in the morning of September 27, 1996; and (4) George’s inaction on the petitioner’s request to be transferred to the operations or marketing department. As disagreeable as they may seem, these acts cannot be equated with bad faith that can justify an award of damages.

Since no moral damages can be granted under the facts of the case, exemplary damages cannot also be awarded.⁵⁰

The solidary liability of individual respondents as corporate officers must be recalled.

In the same vein, the individual respondents cannot be made solidarily liable with RBSJI for the illegal dismissal. Time and again, the Court has held that a corporation has its own legal personality separate and distinct from those of its stockholders, directors or officers. Hence, absent any evidence that they have exceeded their authority, corporate officers are not personally liable for their official acts. Corporate directors and officers may be held solidarily liable with the corporation for the termination of

⁴⁸ Id. at 608-609.

⁴⁹ *Wensha Spa Center, Inc. v. Yung*, G.R. No. 185122, August 16, 2010, 628 SCRA 311, 326.

⁵⁰ *Pacquing v. Coca-Cola Philippines, Inc.*, G.R. No. 157966, January 31, 2008, 543 SCRA 344, 363.

employment only if done with malice or in bad faith.⁵¹ As discussed above, the acts imputed to the respondents do not support a finding of bad faith.

In addition, the lack of a valid cause for the dismissal of an employee does not *ipso facto* mean that the corporate officers acted with malice or bad faith. There must be an independent proof of malice or bad faith,⁵² which is absent in the case at bar.

The award of 13th month pay is incorrect.

Being a managerial employee, the petitioner is not entitled to 13th month pay. Pursuant to Memorandum Order No. 28, as implemented by the Revised Guidelines on the Implementation of the 13th Month Pay Law dated November 16, 1987, managerial employees are exempt from receiving such benefit without prejudice to the granting of other bonuses, in lieu of the 13th month pay, to managerial employees upon the employer's discretion.⁵³

The award of attorney's fees is proper.

It is settled that where an employee was forced to litigate and, thus, incur expenses to protect his rights and interest, the award of attorney's fees is legally and morally justifiable.⁵⁴ Pursuant to Article 111 of the Labor Code, ten percent (10%) of the total award is the reasonable amount of attorney's fees that can be awarded.

WHEREFORE, the petition is **GRANTED**. The Decision dated February 21, 2008 and Resolution dated June 3, 2008 of the Court of Appeals in CA-G.R. SP No. 94690 are **REVERSED** and **SET ASIDE**. The Decision of the Labor Arbiter dated November 27, 1998 is **REINSTATED** with the following **MODIFICATIONS/CLARIFICATIONS**: Petitioner Rolando DS. Torres is entitled to the payment of: (a) back wages reckoned from May 30, 1997 up to the finality of this Decision, with interest at six percent (6%) *per annum*, and 12% legal interest thereafter until fully paid; and (b) in lieu of reinstatement, separation pay equivalent to one (1) month salary for every year of service, with a fraction of at least six (6) months to be considered as one (1) whole year, to be computed from the date of his employment up to the finality of this decision.

⁵¹ *Londonio v. Bio Research, Inc.*, G.R. No. 191459, January 17, 2011, 639 SCRA 591, 599.

⁵² *Lambert Pawnbrokers and Jewelry Corporation v. Binamira*, G.R. No. 170464, July 12, 2010, 624 SCRA 705, 719.

⁵³ *House of Sara Lee v. Rey*, 532 Phil. 121, 145 (2006), citing *Salafranca v. Philamlife Village Homeowners Asso. Inc.*, 360 Phil. 652, 668 (1998).

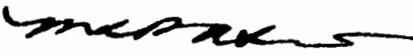
⁵⁴ *Supra* note 52, at 721.

The amounts awarded as moral damages, exemplary damages and 13th month pay are **DELETED**. Only respondent Rural Bank of San Juan, Inc. is liable for the illegal dismissal and the consequential monetary awards arising therefrom. The other portions of and monetary awards in the Labor Arbiter's Decision dated November 27, 1998 are **AFFIRMED**.

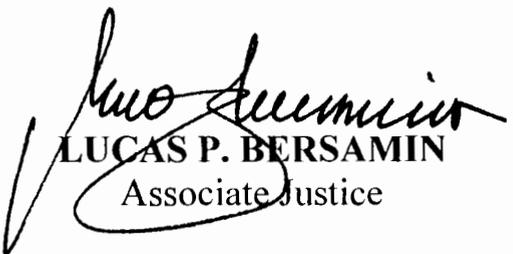
SO ORDERED.

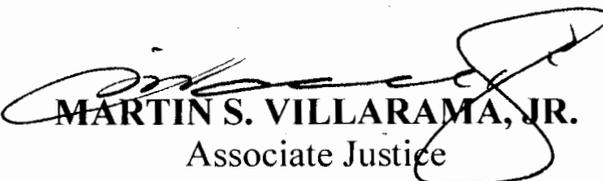

BIENVENIDO L. REYES
 Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
 Chief Justice
 Chairperson


TERESITA J. LEONARDO-DE CASTRO
 Associate Justice


LUCAS P. BERSAMIN
 Associate Justice


MARTIN S. VILLARAMA, JR.
 Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARIA LOURDES P. A. SERENO
 Chief Justice