

FIRST DIVISION

[G.R. No. 123294, October 20, 2010]

PHILIPPINE AIRLINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION AND AIDA M. QUIJANO, RESPONDENTS.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

This is a Petition for *Certiorari* under Rule 65 of the Rules of Court seeking to annul, reverse and set aside the following issuances of public respondent National Labor Relations Commission (NLRC): (1) Decision^[1] dated September 29, 1995 in *NLRC NCR CA 007860-94 (NLRC NCR 00-03-01859-91)*, entitled "*Aida M. Quijano v. Philippine Airlines, Inc.*," which set aside the Decision^[2] of Labor Arbiter Roberto I. Santos and ordered petitioner Philippine Airlines, Inc. (PAL) to pay private respondent Aida M. Quijano (Quijano) her separation pay in accordance with petitioner's "Special Retirement & Separation Program," and (2) Resolution^[3] dated November 14, 1995 denying petitioner's Motion for Reconsideration thereof.

It bears stressing that pursuant to *St. Martin Funeral Home v. National Labor Relations Commission*^[4] and *In Re: Dismissal of Special Civil Actions in NLRC Cases*,^[5] all special civil actions arising out of any decision, final resolution or order of the NLRC must be filed with the Court of Appeals. However, since both parties of this case had filed their respective Memoranda prior to the promulgation of our decision in *St. Martin Funeral Home*, this case was no longer referred to the Court of Appeals.

The following are the pertinent facts, as summarized by the NLRC:

Complainant Quijano rose from the ranks starting as accounting clerk in December 1967 until she became effective September 1, 1984, Manager-Agents Services Accounting Division (ASAD), vice Josefina Sioson.

ASAD, the specific unit in PAL charged with the processing, verification, reconciliation, and validation of all claims for commission filed by agents worldwide, is under the direct supervision and control of the Vice President-Comptroller, and within the scope of the audit program of the Vice President-Internal Audit & Control.

On May 5, 1989, an investigating committee chaired by Leslie W. Espino (hereinafter referred to as the Espino Committee) formally charged Quijano as Manager-ASAD in connection with the processing and payment of commission claims to Goldair Pty. Ltd. (Goldair for short) wherein PAL overpaid commissions to the latter amounting to several

million Australian dollars during the period 1984-1987. Specifically, Quijano was charged as Manager-ASAD with the following:

"Failure on the job and gross negligence resulting in loss of trust and confidence in that you failed to:

a. Exercise the necessary monitoring, control and supervision over your Senior Accounts Analyst to ensure that the latter was performing the basic duties and responsibilities of her job in checking and verifying the correctness and validity of the commission claims from Goldair.

b. Adopt and perform the necessary checks and verification procedures as demanded by your position in order to ensure that the commission claims of Goldair which you were approving for payment were correct and valid claims thus resulting in consistent substantial overpayments to Goldair over a period of more than three years.

c. Require or otherwise cause a final reconciliation of the remaining balance due as commission claims to Goldair for a particular month such that a claim for a particular month was never liquidated in a final amount and thus contributing to consistent overpayments to Goldair."

The Senior Accounts Analyst referred to in the charge was Dora Jane Prado Curammeng who was included as a respondent. Curammeng was specifically assigned to handle and process commissions of agents in, among others, the Australia Region, and Goldair was among the travel agents whose production reports and commission claims were handled by her. Curammeng was accused of failing to verify the completeness of the documents supporting the claims; to trace and match each ticket in the production report submitted by Goldair with the IATA, BSP and CTO sales report; and to perform a complete verification of the net/net amounts claimed in the production reports against the approved marketing arrangements. However, Curammeng had already resigned and became a resident of Canada at the time of the investigation conducted by the Espino Committee.

Pending further investigation, the Espino Committee placed Quijano under preventive suspension and at the same time required her to submit her answer to the charges. As directed, Quijano submitted her answer wherein, among others, she explained as follows:

"My staff processes production reports submitted by both passenger and cargo agents. In 1984, they were only seven (7) people (with one on loan to Financial Analysis Division) and yet they process commission claims of an average of PHP four billion annually. My colleagues who are responsible for processing and recording gross passenger and cargo sales

have around 51 people. Just the ratio of my staff to accounting sales staff, which is one to seven, would indicate the heavy load our unit experience.

I wish to emphasize however, that the staff assigned under my division have been selected on the basis of their judgment competence considering the very nature of marketing arrangements with agents are strictly private and confidential. Under the circumstances I have just mentioned, my staff's judgment and competence is heavily relied on particularly when random checking of commission claims for traffic documents and airway bills against sales reports is being performed by them. I also seek your appreciation of the work environment we are in and the intermittent conflicts we experience due to the pressure of prompt settlement of claims to agents and yet having the satisfaction that the processing procedures are adequate.

x x x x

May I reiterate to the Committee that when my staff informed me of their findings of double claims on the production reports for the months of October and November 1987, I followed this up with a representative of Goldair. On June 1988, I received a handwritten note from the representative of Goldair signed by its General Manager Aleco Papazoglou, a xerox copy of it is hereto attached as Annex "A". Mr. Papazoglou, in this note, guaranteed to me that he will undertake to collect any excessive payments on the agent fees from his agents and pay these to us afterwards.

At this point, I would like to emphasize that ASAD, before known as "Confidential Staff" under the Office of the VP-Comptroller, became a unit since 1976. Due to the confidential nature of its functions, the accounting procedures were not written. The procedures being performed by the staff were mainly practices handed down from their predecessors. Further, the procedures were tailored to adopt to the market environment of the country which were based on the approved marketing arrangements. But of course, there were inherent internal controls.

A final check whether accounting procedures being observed were appropriate in accordance with accounting standards, is the periodic examination of both our internal and external auditors.

During all these 4-1/2 years I have been with ASAD, I did not receive any feedback that there were weaknesses or lapses in accounting controls and procedures being followed.

In 1985, Cressop McCormick & Paget made a study of the

CMA's. They conducted an interview of all key personnel including me who were involved in handling CMA's. It was of course necessary for them to observe and evaluate the existing accounting procedures and controls. Their report, however, did not mention any adverse findings concerning my division.

In 1986, Sycip, Gorres, Velayo & Co. were engaged to look into the CMA functional specifications and to propose the best method of allocating commission expenses to flown revenues. To be able for them to render a report, it is, of course, necessary for them to delve into the reports we receive and the records we maintain. It is safe to surmise that they "walked through" our accounting procedures. No mention, however, of weaknesses on our accounting procedures and controls was made in their report.

Again, during the early part of 1987, all the production reports from Australia for the period April to September 1986 were borrowed and audited by Internal Audit and control. We apprised the auditor then of the various procedures we observed in processing these production reports. We did not receive any adverse feedback about their audit. Our confidence that the AMA's were properly enforced by Australian agents and that there were no irregularities committed were thus regained. We shifted our concentration to the other agents particularly those under Nett-Nett settlement arrangements and tried to recall any commission that should be disallowed.

In the middle of 1987, a special team from the Commission on Audit conducted a fraud audit and again, interviewed my staff and I on our accounting procedures. Incentive commission figures by agent by country were also furnished to them. I wasn't informed of any flaws in our accounting procedures and control nor existence of any fraud.

My division underwent scrutiny of three (3) prestigious consulting firms and of our own internal audit. I relied heavily on the absence of any unfavorable findings on accounting procedures and controls from them since their studies were quite extensive and lengthy. It is quite surprising at times why I am now asked how I could have failed to observe that certain accounting procedures were not being followed by my staff.

x x x x

Also, Internal Audit & Control made a regular audit in Australia in November, 1986 headed by no less than the Vice President-Internal Audit & Control. They did not discover any fraud nor report any questionable transaction on Passenger but on

Cargo transaction only. If they, the auditors, did not find any discrepancy when their concentration is on Australia alone, how much more with us when our concentration is on the whole system? The production reports of Goldair was borrowed and assessed by the auditor before and after the regular audit."

The other members of the Espino Committee were Ricardo G. Paloma, then Senior Vice President-Strategic Planning & Corporate Services wrote a dissenting opinion to the Final Draft Majority Report in the following manner, to wit:

"A new set of procedures was apparently installed by Romeo Ines and Josefina Sioson in April, 1984 (without any evident formal authorization by the Comptroller Dept.) upon receipt of Aleco Papazoglou's letter that automatic payment be made upon presentation of his production reports in Manila Gold Air gained immunity against any possibility of cross of their production reports: it was simply impossible to cross check the production reports against sales reports are not yet in by the time the hand carried production reports arrive in ASAD.

Upon assumption of office by Aida Quijano this new set of procedure was carried over. She was made to understand that these were the OFFICIAL PROCEDURES, contrary to the actual procedure which called for production reports being initially checked by PAL Melbourne during the 1981 to 1983 period. This initial check which had until them been handled by the Regional Office was combined with the secondary check and were all dumped on ASAD.

A mitigating factor in Quijano's favor is that UNSEEN HANDS designed or allowed this new procedures to be put in place. Ines, who became the VP Internal Audit should have known the prescribed procedures (or at the very least the actual practice during the period 1981 to 1983 when he was the VP Comptroller) and yet, did not alert her. Unknowingly, Quijano allowed the by-pass and the automatic payment of 80% upon presentation of production reports because Sioson assured her that was the procedure previously followed. Trustingly, she became a participant in this mess."

It should be noted that the Romeo Ines mentioned in the dissenting opinion is the same Romeo R. Ines who was one of the members of the Espino Committee and who was later named a respondent in the second Goldair charge, together with Chairman Espino. Romeo R. Ines was the VP-Comptroller for the period 1981-1983 and VP-Internal Audit for the period 1984-1987. While Josefina Sioson, as earlier shown, was the Manager-ASAD during the period 1981-1983 until she was replaced by Quijano on September 1, 1984. Incidentally, as found by respondent's