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# SECOND DIVISION

# [ G.R. No. 127768, November 19, 1999 ]

## UNITED AIRLINES, PETITIONER, VS. WILLIE J. UY, RESPONDENT.

## D E C I S I O N

**BELLOSILLO, J.:**

UNITED AIRLINES assails in this petition for review on *certiorari* under Rule 45 the 29 August 1995 Decision of the Court of Appeals in CA-G.R. CV No. 39761 which reversed the 7 August 1992 order issued by the trial court in Civil Case No. Q-92-12410[1] granting petitioner's motion to dismiss based on prescription of cause of action. The issues sought to be resolved are whether the notice of appeal to the appellate court was timely filed, and whether Art. 29 of the Warsaw Convention[2] should apply to the case at bar.

On 13 October 1989 respondent Willie J. Uy, a revenue passenger on United Airlines Flight No. 819 for the San Francisco - Manila route, checked in together with his luggage one piece of which was found to be overweight at the airline counter. To his utter humiliation, an employee of petitioner rebuked him saying that he should have known the maximum weight allowance to be 70 kgs. per bag and that he should have packed his things accordingly. Then, in a loud voice in front of the milling crowd, she told respondent to repack his things and transfer some of them from the overweight luggage to the lighter ones. Not wishing to create further scene, respondent acceded only to find his luggage still overweight. The airline then billed him overweight charges which he offered to pay with a miscellaneous charge order (MCO) or an airline pre-paid credit. However, the airline's employee, and later its airport supervisor, adamantly refused to honor the MCO pointing out that there were conflicting figures listed on it. Despite the explanation from respondent that the last figure written on the MCO represented his balance, petitioner's employees did not accommodate him. Faced with the prospect of leaving without his luggage, respondent paid the overweight charges with his American Express credit card.

Respondent's troubles did not end there. Upon arrival in Manila, he discovered that one of his bags had been slashed and its contents stolen. He particularized his losses to be around US $5,310.00. In a letter dated 16 October 1989 respondent bewailed the insult, embarrassment and humiliating treatment he suffered in the hands of United Airlines employees, notified petitioner of his loss and requested reimbursement thereof. Petitioner United Airlines, through Central Baggage Specialist Joan Kroll, did not refute any of respondent's allegations and mailed a check representing the payment of his loss based on the maximum liability of US $9.70 per pound. Respondent, thinking the amount to be grossly inadequate to compensate him for his losses, as well as for the indignities he was subjected to, sent two (2) more letters to petitioner airline, one dated 4 January 1990 through a certain Atty. Pesigan, and another dated 28 October 1991 through Atty. Ramon U.

Ampil demanding an out-of-court settlement of P1,000,000.00. Petitioner United Airlines did not accede to his demands.

Consequently, on 9 June 1992 respondent filed a complaint for damages against United Airlines alleging that he was a person of good station, sitting in the board of directors of several top 500 corporations and holding senior executive positions for such similar firms;[3] that petitioner airline accorded him ill and shabby treatment to his extreme embarrassment and humiliation; and, as such he should be paid moral damages of at least P1,000,000.00, exemplary damages of at least P500,000.00, plus attorney's fees of at least P50,000.00. Similarly, he alleged that the damage to his luggage and its stolen contents amounted to around $5,310.00, and requested reimbursement therefor.

United Airlines moved to dismiss the complaint on the ground that respondent's cause of action had prescribed, invoking Art. 29 of the Warsaw Convention which provides -

> Art. 29 (1) The right to damages shall be extinguished if an action is not brought within two (2) years, reckoned from the date of arrival at the destination, or from the date on which the aircraft ought to have arrived, or from the date on which the transportation stopped.
>
> (2) The method of calculating the period of limitation shall be determined by the law of the court to which the case is submitted.

Respondent countered that par. (1) of Art. 29 of the Warsaw Convention must be reconciled with par. (2) thereof which states that "the method of calculating the period of limitation shall be determined by the law of the court to which the case is submitted." Interpreting thus, respondent noted that according to Philippine laws the prescription of actions is interrupted "when they are filed before the court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor."[4] Since he made several demands upon United Airlines: *first*, through his personal letter dated 16 October 1989; *second*, through a letter dated 4 January 1990 from Atty. Pesigan; and, *finally*, through a letter dated 28 October 1991 written for him by Atty. Ampil, the two (2)-year period of limitation had not yet been exhausted.

On 2 August 1992 the trial court ordered the dismissal of the action holding that the language of Art. 29 is clear that the action must be brought within two (2) years from the date of arrival at the destination. It held that although the second paragraph of Art. 29 speaks of deference to the law of the local court in "calculating the period of limitation," the same does not refer to the local forum's rules in interrupting the prescriptive period but only to the rules of determining the time in which the action may be deemed commenced, and within our jurisdiction the action shall be deemed "brought" or commenced by the filing of a complaint. Hence, the trial court concluded that Art. 29 excludes the application of our interruption rules.

Respondent received a copy of the dismissal order on 17 August 1992. On 31 August 1992, or fourteen (14) days later, he moved for the reconsideration of the trial court's order. The trial court denied the motion and respondent received copy of

the denial order on 28 September 1992. Two (2) days later, on 1 October 1992 respondent filed his notice of appeal.

United Airlines once again moved for the dismissal of the case this time pointing out that respondent's fifteen (15)-day period to appeal had already elapsed. Petitioner argued that having used fourteen (14) days of the reglementary period for appeal, respondent Uy had only one (1) day remaining to perfect his appeal, and since he filed his notice of appeal two (2) days later, he failed to meet the deadline.

In its questioned Decision dated 29 August 1995[5] the appellate court gave due course to the appeal holding that respondent's delay of two (2) days in filing his notice of appeal did not hinder it from reviewing the appealed order of dismissal since jurisprudence dictates that an appeal may be entertained despite procedural lapses anchored on equity and justice.

On the applicability of the Warsaw Convention, the appellate court ruled that the Warsaw Convention did not preclude the operation of the Civil Code and other pertinent laws. Respondent's failure to file his complaint within the two (2)-year limitation provided in the Warsaw Convention did not bar his action since he could still hold petitioner liable for breach of other provisions of the Civil Code which prescribe a different period or procedure for instituting an action. Further, under Philippine laws, prescription of actions is interrupted where, among others, there is a written extrajudicial demand by the creditors, and since respondent Uy sent several demand letters to petitioner United Airlines, the running of the two (2)-year prescriptive period was in effect suspended. Hence, the appellate court ruled that respondent's cause of action had not yet prescribed and ordered the records remanded to the Quezon City trial court for further proceedings.

Petitioner now contends that the appellate court erred in assuming jurisdiction over respondent's appeal since it is clear that the notice of appeal was filed out of time. It argues that the courts relax the stringent rule on perfection of appeals only when there are extraordinary circumstances, e.g., when the Republic stands to lose hundreds of hectares of land already titled and used for educational purposes; when the counsel of record was already dead; and wherein appellant was the owner of the trademark for more than thirty (30) years, and the circumstances of the present case do not compare to the above exceptional cases.[6]

Section 1 of Rule 45 of the *1997 Rules of Civil Procedure* provides that "a party may appeal by certiorari, from a judgment of the Court of Appeals, by filing with the Supreme Court a petition for certiorari, within fifteen (15) days from notice of judgment or of the denial of his motion for reconsideration filed in due time x x x x" This Rule however should not be interpreted as "to sacrifice the substantial right of the appellant in the sophisticated altar of technicalities with impairment of the sacred principles of justice."[7] It should be borne in mind that the real purpose behind the limitation of the period of appeal is to forestall or avoid an unreasonable delay in the administration of justice. Thus, we have ruled that delay in the filing of a notice of appeal does not justify the dismissal of the appeal where the circumstances of the case show that there is no intent to delay the administration of justice on the part of appellant's counsel,[8] or when there are no substantial rights affected,[9] or when appellant's counsel committed a mistake in the computation of the period of appeal, an error not attributable to negligence or bad faith.[10]