

FIRST DIVISION

[G.R. No. 137136, November 03, 1999]

**NORTHWEST AIRLINES, INC., PETITIONER, VS. CAMILLE T. CRUZ
AND COURT OF APPEALS, RESPONDENTS.**

DECISION

KAPUNAN, J.:

Before this Court is a petition for review on *certiorari* of the Decision of the Court of Appeals, dated September 30, 1998; and, of its Resolution, dated January 11, 1999.

The antecedent facts are as follows:

On August 24, 1992, herein private respondent Camille T. Cruz, then a teenage girl who would be travelling alone for the first time, purchased from petitioner Northwest Airlines a round-trip ticket for a flight from Manila to Boston *via* Tokyo and back. The scheduled departure date from Manila to Boston was August 27, 1992 at 8:40 a.m. in economy class while the scheduled return flight from Boston to Manila in business class was on December 22, 1992 at 10:25 a.m.^[1]

On November 25, 1992, private respondent re-scheduled her return flight from Boston to Manila to December 17, 1992 at 10:05 a.m. Accordingly, petitioner booked her on Northwest flight NW005 C ("Flight 5") with route as follows: Boston to Chicago; Chicago to Tokyo; and, Tokyo to Manila.^[2]

Petitioner reconfirmed the flight from Boston, U.S.A. to Manila scheduled on December 17, 1992 at least seventy-two (72) hours prior to the said scheduled flight.^[3]

However, barely a day before the scheduled date of departure, petitioner called private respondent and informed her that instead of following her original itinerary of Boston to Chicago; Chicago to Tokyo; and, Tokyo to Manila, private respondent should instead board the TWA flight from Boston to Kennedy International Airport in New York. Private respondent was further instructed by petitioner to proceed to the latter's counter at the Logan Airport in Boston before boarding the TWA flight on the scheduled date of departure.^[4]

On December 17, 1992, upon petitioner's instructions, private respondent proceeded early to the petitioner's counter at Logan Airport in Boston but was referred to the TWA counter where she was informed that she may not be able to take the TWA flight. Notwithstanding this uncertainty, private respondent was made to proceed to the International Gate where she was informed that the TWA flight she was to take to Kennedy International Airport in New York was cancelled.^[5]

Due to the unexplained and belated cancellation of the TWA flight, private respondent had to rush back from the International Gate to petitioner's counter in Logan Airport in Boston where she was again told to proceed immediately to the Delta Airlines terminal to catch the Delta Airlines flight to La Guardia Airport in New York and thence took the service car to Kennedy Airport in New York.^[6]

In her haste to catch the said flight, private respondent tripped and fell down on her way from petitioner's counter to the Delta Airlines counter in Logan Airport in Boston thereby suffering slight physical injuries and embarrassment.^[7]

When private respondent reached La Guardia Airport in New York, she again had to rush to the service car that would take her to Kennedy International Airport which is several miles away from La Guardia. In her haste and anxiety to catch her flight, private respondent again tripped and fell down thereby suffering more physical injuries, embarrassment and great inconvenience.^[8]

Private respondent's apprehension was further aggravated when she was informed at petitioner's counter in Kennedy International Airport that she was issued the wrong ticket to Seoul instead of Tokyo. Although the error was rectified by petitioner at Kennedy International Airport, private respondent was by then extremely nervous, worried, stressed out, and exhausted.^[9]

To make matters worse, petitioner downgraded private respondent from business class to economy class on two legs of her flight without notice nor apology. Neither did petitioner offer to refund the excess fare private respondent paid for a business class seat.^[10]

Hence, on August 6, 1993, private respondent filed a complaint^[11] against petitioner Northwest Airlines, Inc. for breach of contract of carriage committed when petitioner changed private respondent's original itinerary of Boston to Chicago, Chicago to Tokyo, Tokyo to Manila to a new itinerary of Boston to New York, New York to Tokyo and Tokyo to Manila, thereby downgrading private respondent on two legs of her return flight to Manila from business to economy class (flights from Boston to New York, and from Tokyo to Manila). Private respondent claimed to have suffered actual, moral and exemplary damages.^[12]

Petitioner filed its answer with compulsory counterclaim alleging therein that the flight on which private respondent was originally booked was cancelled due to maintenance problems and bad weather,^[13] and that the airline had done its best to re-book private respondent on the next available flights.

Trial progressed until 1995 when it was petitioner's turn to present its witness on three scheduled dates. Two of the settings were cancelled when petitioner's counsel filed notice for oral deposition of one Mario Garza, witness for petitioner, in New York. Private respondent filed her opposition and suggested written interrogatories instead. However, in an Order dated July 26, 1995, the trial court denied private respondent's opposition, thus allowing the deposition to proceed. The oral deposition took place in New York on July 24, 1995^[14] or notably two days before the issuance of the trial court's order allowing the deposition to proceed.

The records show that although it was the Honorable Consul Milagros R. Perez who swore in the deponent,^[15] she thereafter designated one "Attorney Gonzalez" as Deposition Officer.^[16] After stating his personal circumstances, Mr. Mario Garza, testified as follows:

xxx.

ATTY. AUTEA

What is your present position?

MR. GARZA

I am currently a customer service supervisor and instructor for Northwest in Boston.

ATTY. AUTEA

In or about December 1992, what was your position?

MR. GARZA

I was a customer service supervisor and instructor.

ATTY. AUTEA

As a customer service supervisor and instructor what are the duties which you discharged?

MR. GARZA

My responsibilities are in Boston field work to oversee the ground staff and for the employees of Northwest who work at the counter, gates, luggage service operations.

ATTY. AUTEA

Do you discharge any responsibilities in connection with canceled flights?

MR. GARZA

Yes, I do. If a flight is canceled it is my responsibility amongst many supervisor, to determine how we are gonna best serve our customers with rebooking for protection some other main customer services.

ATTY. AUTEA

Have you ever been come across the name of Camille T. Cruz in connection with a canceled Northwest flight?

MR. GARZA

Yes, I have.

xxx.

ATTY. AUTEA

Based on this passenger name record marked as Exhibit 2 and the transcript marked as Exhibit 3, very briefly can you tell us what was the original flight schedule of Camille T. Cruz on her return flight from Boston to Manila on December 17, 1992?

MR. GARZA

It actually she goes back a little before that, she was booked originally to return to Manila on the 22nd of December and she was advised of the schedule change wherein Northwest changed the flight number from Northwest Flight 3 to Northwest Flight 5 and then on the 14th of October the reservation from, I can tell here for the customer was changed from the 22nd of December to 17th of December, Boston to Manila.

ATTY. AUTEA

Okay. You said that there was a change of flight from Northwest Flight 3 to Northwest Flight 5, what brought about the change?

MR. GARZA

There was a schedule change and during schedule changes sometime, anytime there's a change in departure time or change in flight number and that's referred as a schedule change if there is a phone contact we are advised to contact the customers so they will know what flight they are supposed to be on.

ATTY. AUTEA

And and (sic) that does it show there as it is stated in the complaint filed by the plaintiff that she requested for the change from December 22 to December 17?

MR. GARZA

Yes.

ATTY. AUTEA

Now under this uh--new flight schedule Northwest Flight 5, what was the itinerary of Camille T. Cruz?

MR. GARZA

Flight 5 is referred to as Direct Flight from Boston to Manila, uhh--the routing for that flight goes Boston - Chicago, Tokyo-Manila with a change of equipment and it is a change of aircraft type in Chicago.

ATTY. AUTEA

Okay. What happened to that flight? Northwest Flight 5? The originally first leg of which was Boston to Chicago?

MR. GARZA

On the 17th, Flight 5 from Boston to Chicago canceled due to maintenance problem.

xxx.

ATTY. AUTEA

Ahh. In other words Mr. Garza, the aircraft which the plaintiff in this case was scheduled to take came from Washington

D.C., is that right?

MR. GARZA

That is correct.

ATTY. AUTEA

And from Washington DC that aircraft flew to Boston is that right?

MR. GARZA

Well it supposed to fly it is it didn't fly.

ATTY. AUTEA

It was supposed to fly but it didn't fly?

MR. GARZA

That is correct.

ATTY. AUTEA

What is the reason for the inability of the aircraft to fly from Washington DC to Boston?

MR. GARZA

Based on this messages says "Emergency Lights INOP and unable to repair."

xxx.

ATTY. AUTEA

In other words Mr. Garza, when the original Northwest Flight Number 5 of the passenger Camille T. Cruz was canceled due to maintenance work she was given two options, is that right?

MR. GARZA

Yes.

ATTY. AUTEA

And the first option is that written in Item Number 8, is that right?

MR. GARZA

That is correct.

ATTY. AUTEA

The second option is that written in Item Number 9 of Exhibit 3, is that right?

MR. GARZA

That is correct.

ATTY. AUTEA

And who made the decision for Camille T. Cruz as to which option to take?

MR. GARZA