

FIRST DIVISION

[G.R. No. 122191, October 08, 1998]

SAUDI ARABIAN AIRLINES, PETITIONER, VS. COURT OF APPEALS, MILAGROS P. MORADA AND HON. RODOLFO A. ORTIZ, IN HIS CAPACITY AS PRESIDING JUDGE OF BRANCH 89, REGIONAL TRIAL COURT OF QUEZON CITY, RESPONDENTS.

DECISION

QUISUMBING, J.:

This petition for certiorari pursuant to Rule 45 of the Rules of Court seeks to annul and set aside the Resolution^[1] dated September 27, 1995 and the Decision^[2] dated April 10, 1996 of the Court of Appeals^[3] in CA-G.R. SP No. 36533,^[4] and the Orders^[5] dated August 29, 1994^[6] and February 2, 1995^[7] that were issued by the trial court in Civil Case No. Q-93-18394.^[8]

The pertinent antecedent facts which gave rise to the instant petition, as stated in the questioned Decision^[9], are as follows:

"On January 21, 1988 defendant SAUDIA hired plaintiff as a Flight Attendant for its airlines based in Jeddah, Saudi Arabia. x x x

On April 27, 1990, while on a lay-over in Jakarta, Indonesia, plaintiff went to a disco dance with fellow crew members Thamer Al-Gazzawi and Allah Al-Gazzawi, both Saudi nationals. Because it was almost morning when they returned to their hotels, they agreed to have breakfast together at the room of Thamer. When they were in te (sic) room, Allah left on some pretext. Shortly after he did, Thamer attempted to rape plaintiff. Fortunately, a roomboy and several security personnel heard her cries for help and rescued her. Later, the Indonesian police came and arrested Thamer and Allah Al-Gazzawi, the latter as an accomplice.

When plaintiff returned to Jeddah a few days later, several SAUDIA officials interrogated her about the Jakarta incident. They then requested her to go back to Jakarta to help arrange the release of Thamer and Allah. In Jakarta, SAUDIA Legal Officer Sirah Akkad and base manager Baharini negotiated with the police for the immediate release of the detained crew members but did not succeed because plaintiff refused to cooperate. She was afraid that she might be tricked into something she did not want because of her inability to understand the local dialect. She also declined to sign a blank paper and a document written in the local dialect. Eventually, SAUDIA allowed plaintiff to return to Jeddah but barred her from the Jakarta flights.

Plaintiff learned that, through the intercession of the Saudi Arabian

government, the Indonesian authorities agreed to deport Thamer and Allah after two weeks of detention. Eventually, they were again put in service by defendant SAUDI (sic). In September 1990, defendant SAUDIA transferred plaintiff to Manila.

On January 14, 1992, just when plaintiff thought that the Jakarta incident was already behind her, her superiors requested her to see Mr. Ali Miniewy, Chief Legal Officer of SAUDIA, in Jeddah, Saudi Arabia. When she saw him, he brought her to the police station where the police took her passport and questioned her about the Jakarta incident. Miniewy simply stood by as the police put pressure on her to make a statement dropping the case against Thamer and Allah. Not until she agreed to do so did the police return her passport and allowed her to catch the afternoon flight out of Jeddah.

One year and a half later or on June 16, 1993, in Riyadh, Saudi Arabia, a few minutes before the departure of her flight to Manila, plaintiff was not allowed to board the plane and instead ordered to take a later flight to Jeddah to see Mr. Miniewy, the Chief Legal Officer of SAUDIA. When she did, a certain Khalid of the SAUDIA office brought her to a Saudi court where she was asked to sign a document written in Arabic. They told her that this was necessary to close the case against Thamer and Allah. As it turned out, plaintiff signed a notice to her to appear before the court on June 27, 1993. Plaintiff then returned to Manila.

Shortly afterwards, defendant SAUDIA summoned plaintiff to report to Jeddah once again and see Miniewy on June 27, 1993 for further investigation. Plaintiff did so after receiving assurance from SAUDIA's Manila manager, Aslam Saleemi, that the investigation was routinary and that it posed no danger to her.

In Jeddah, a SAUDIA legal officer brought plaintiff to the same Saudi court on June 27, 1993. Nothing happened then but on June 28, 1993, a Saudi judge interrogated plaintiff through an interpreter about the Jakarta incident. After one hour of interrogation, they let her go. At the airport, however, just as her plane was about to take off, a SAUDIA officer told her that the airline had forbidden her to take flight. At the Inflight Service Office where she was told to go, the secretary of Mr. Yahya Saddick took away her passport and told her to remain in Jeddah, at the crew quarters, until further orders.

On July 3, 1993 a SAUDIA legal officer again escorted plaintiff to the same court where the judge, to her astonishment and shock, rendered a decision, translated to her in English, sentencing her to five months imprisonment and to 286 lashes. Only then did she realize that the Saudi court had tried her, together with Thamer and Allah, for what happened in Jakarta. The court found plaintiff guilty of (1) adultery; (2) going to a disco, dancing and listening to the music in violation of Islamic laws; and (3) socializing with the male crew, in contravention of Islamic tradition."

Facing conviction, private respondent sought the help of her employer, petitioner SAUDIA. Unfortunately, she was denied any assistance. She then asked the Philippine Embassy in Jeddah to help her while her case is on appeal. Meanwhile, to pay for her upkeep, she worked on the domestic flight of SAUDIA, while Thamer and Allah continued to serve in the international flights.^[11]

Because she was wrongfully convicted, the Prince of Makkah dismissed the case against her and allowed her to leave Saudi Arabia. Shortly before her return to Manila,^[12] she was terminated from the service by SAUDIA, without her being informed of the cause.

On November 23, 1993, Morada filed a Complaint^[13] for damages against SAUDIA, and Khaled Al-Balawi ("Al- Balawi"), its country manager.

On January 19, 1994, SAUDIA filed an Omnibus Motion To Dismiss^[14] which raised the following grounds, to wit: (1) that the Complaint states no cause of action against Saudia; (2) that defendant Al-Balawi is not a real party in interest; (3) that the claim or demand set forth in the Complaint has been waived, abandoned or otherwise extinguished; and (4) that the trial court has no jurisdiction to try the case.

On February 10, 1994, Morada filed her Opposition (To Motion to Dismiss)^[15] Saudia filed a reply^[16] thereto on March 3, 1994.

On June 23, 1994, Morada filed an Amended Complaint^[17] wherein Al-Balawi was dropped as party defendant. On August 11, 1994, Saudia filed its Manifestation and Motion to Dismiss Amended Complaint^[18].

The trial court issued an Order^[19] dated August 29, 1994 denying the Motion to Dismiss Amended Complaint filed by Saudia.

From the Order of respondent Judge^[20] denying the Motion to Dismiss, SAUDIA filed on September 20, 1994, its Motion for Reconsideration^[21] of the Order dated August 29, 1994. It alleged that the trial court has no jurisdiction to hear and try the case on the basis of Article 21 of the Civil Code, since the proper law applicable is the law of the Kingdom of Saudi Arabia. On October 14, 1994, Morada filed her Opposition^[22] (To Defendant's Motion for Reconsideration).

In the Reply^[23] filed with the trial court on October 24, 1994, SAUDIA alleged that since its Motion for Reconsideration raised lack of jurisdiction as its cause of action, the Omnibus Motion Rule does not apply, even if that ground is raised for the first time on appeal. Additionally, SAUDIA alleged that the Philippines does not have any substantial interest in the prosecution of the instant case, and hence, without jurisdiction to adjudicate the same.

Respondent Judge subsequently issued another Order^[24] dated February 2, 1995, denying SAUDIA's Motion for Reconsideration. The pertinent portion of the assailed Order reads as follows:

"Acting on the Motion for Reconsideration of defendant Saudi Arabian Airlines filed, thru counsel, on September 20, 1994, and the Opposition thereto of the plaintiff filed, thru counsel, on October 14, 1994, as well as the Reply therewith of defendant Saudi Arabian Airlines filed, thru counsel, on October 24, 1994, considering that a perusal of the plaintiff's Amended Complaint, which is one for the recovery of actual, moral and exemplary damages plus attorney's fees, upon the basis of the applicable Philippine law, Article 21 of the New Civil Code of the Philippines, is, clearly, within the jurisdiction of this Court as regards the subject matter, and there being nothing new of substance which might cause the reversal or modification of the order sought to be reconsidered, the motion for reconsideration of the defendant, is DENIED.

SO ORDERED."^[25]

Consequently, on February 20, 1995, SAUDIA filed its Petition for Certiorari and Prohibition with Prayer for Issuance of Writ of Preliminary Injunction and/or Temporary Restraining Order^[26] with the Court of Appeals.

Respondent Court of Appeals promulgated a Resolution with Temporary Restraining Order^[27] dated February 23, 1995, prohibiting the respondent Judge from further conducting any proceeding, unless otherwise directed, in the interim.

In another Resolution^[28] promulgated on September 27, 1995, now assailed, the appellate court denied SAUDIA's Petition for the Issuance of a Writ of Preliminary Injunction dated February 18, 1995, to wit:

"The Petition for the Issuance of a Writ of Preliminary Injunction is hereby DENIED, after considering the Answer, with Prayer to Deny Writ of Preliminary Injunction (Rollo, p. 135) the Reply and Rejoinder, it appearing that herein petitioner is not clearly entitled thereto (Unciano Paramedical College, et. Al., v. Court of Appeals, et. Al., 100335, April 7, 1993, Second Division).

SO ORDERED."

On October 20, 1995, SAUDIA filed with this Honorable Court the instant Petition^[29] for Review with Prayer for Temporary Restraining Order dated October 13, 1995.

However, during the pendency of the instant Petition, respondent Court of Appeals rendered the Decision^[30] dated April 10, 1996, now also assailed. It ruled that the Philippines is an appropriate forum considering that the Amended Complaint's basis for recovery of damages is Article 21 of the Civil Code, and thus, clearly within the jurisdiction of respondent Court. It further held that certiorari is not the proper remedy in a denial of a Motion to Dismiss, inasmuch as the petitioner should have proceeded to trial, and in case of an adverse ruling, find recourse in an appeal.

On May 7, 1996, SAUDIA filed its Supplemental Petition for Review with Prayer for Temporary Restraining Order^[31] dated April 30, 1996, given due course by this Court. After both parties submitted their Memoranda,^[32] the instant case is now deemed submitted for decision.

Petitioner SAUDIA raised the following issues:

"I

The trial court has no jurisdiction to hear and try Civil Case No. Q-93-18394 based on Article 21 of the New Civil Code since the proper law applicable is the law of the Kingdom of Saudi Arabia inasmuch as this case involves what is known in private international law as a 'conflicts problem'. Otherwise, the Republic of the Philippines will sit in judgment of the acts done by another sovereign state which is abhorred.

II.

Leave of court before filing a supplemental pleading is not a jurisdictional requirement. Besides, the matter as to absence of leave of court is now moot and academic when this Honorable Court required the respondents to comment on petitioner's April 30, 1996 Supplemental Petition For Review With Prayer For A Temporary Restraining Order Within Ten (10) Days From Notice Thereof. Further, the Revised Rules of Court should be construed with liberality pursuant to Section 2, Rule 1 thereof.

III.

Petitioner received on April 22, 1996 the April 10, 1996 decision in CA-G.R. SP NO. 36533 entitled 'Saudi Arabian Airlines v. Hon. Rodolfo A. Ortiz, et al.' and filed its April 30, 1996 Supplemental Petition For Review With Prayer For A Temporary Restraining Order on May 7, 1996 at 10:29 a.m. or within the 15-day reglementary period as provided for under Section 1, Rule 45 of the Revised Rules of Court. Therefore, the decision in CA-G.R. SP NO. 36533 has not yet become final and executory and this Honorable Court can take cognizance of this case."^[33]

From the foregoing factual and procedural antecedents, the following issues emerge for our resolution:

I.

WHETHER RESPONDENT APPELLATE COURT ERRED IN HOLDING THAT THE REGIONAL TRIAL COURT OF QUEZON CITY HAS JURISDICTION TO HEAR AND TRY CIVIL CASE NO. Q-93-18394 ENTITLED "MILAGROS P. MORADA V. SAUDI ARABIAN AIRLINES."

II.

WHETHER RESPONDENT APPELLATE COURT ERRED IN RULING THAT IN THE CASE PHILIPPINE LAW SHOULD GOVERN.

Petitioner SAUDIA claims that before us is a conflict of laws that must be settled at the outset. It maintains that private respondent's claim for alleged abuse of rights occurred in the Kingdom of Saudi Arabia. It alleges that the existence of a foreign element qualifies the instant case for the application of the law of the Kingdom of