

## SECOND DIVISION

[ G.R. No. 119641, May 17, 1996 ]

**PHILIPPINE AIRLINES, INC., PETITIONER, VS. COURT OF APPEALS, DR. JOSEFINO MIRANDA AND LUISA MIRANDA, RESPONDENTS.**

### DECISION

**REGALADO, J.:**

In this appeal by *certiorari*, petitioner Philippine Airlines, Inc. (PAL) assails the decision of respondent Court of Appeals in CA-G.R. CV No. 29147<sup>[1]</sup> which affirmed the judgment of the trial court finding herein petitioner liable as follows:

"Wherefore, premises considered, judgment is hereby rendered ordering the defendant, Philippine Airlines or PAL, to pay to the plaintiffs, Dr. Josefino Miranda and Luisa Miranda, the sum of P100,000.00 as moral damages; P30,000.00 as exemplary or corrective damages; P 10,000.00 as attorney's fees; and the costs."<sup>[2]</sup>

The factual antecedents of the present petition reveal that sometime in May, 1988, Dr. Josefino Miranda and his wife, Luisa, who were residents of Surigao City, went to the United States of America on a regular flight of Philippine Airlines, Inc. (PAL). On June 19, 1988, after a stay of over a month there, they obtained confirmed bookings from PAL's San Francisco Office for PAL Flight PR 101 from San Francisco to Manila via Honolulu on June 21, 1988; PAL Flight PR 851 from Manila to Cebu on June 24, 1988; and PAL Flight PR 905 from Cebu to Surigao also on June 24, 1988.

Accordingly, on June 21, 1988, private respondents boarded PAL Flight PR 101 in San Francisco with five (5) pieces of baggage. After a stopover at Honolulu, and upon arrival in Manila on June 23, 1988, they were told by the PAL personnel that their baggage consisting of two *balikbayan* boxes, two pieces of luggage and one fishing rod case were off-loaded at Honolulu, Hawaii due to weight limitations. Consequently, private respondents missed their connecting flight from Manila to Cebu City, as originally scheduled, since they had to wait for their baggage which arrived the following day, June 24, 1988, after their pre-scheduled connecting flight had left. They consequently also missed their other scheduled connecting flight from Cebu City to Surigao City.

On June 25, 1988, they departed for Cebu City and therefrom private respondents had to transfer to PAL Flight 471 for Surigao City. On the way to Surigao City, the pilot announced that they had to return to Mactan Airport due to some mechanical problem. While at Mactan Airport, the passengers were provided by PAL with lunch and were booked for the afternoon flight to Surigao City. However, said flight was also canceled.

Since there were no more flights for Surigao City that day, private respondents

asked to be billeted at the Cebu Plaza Hotel where they usually stay whenever they happen to be in Cebu City. They were, however, told by the PAL employees that they could not be accommodated at said hotel supposedly because it was fully booked. Contrarily, when Dr. Miranda called the hotel, he was informed that he and his wife could be accommodated there. Although reluctant at first, PAL eventually agreed to private respondents' overnight stay at said hotel. Oscar Jereza, PAL duty manager, approved the corresponding hotel authority with standard meals. It was only after private respondents' insistence that their meals be ordered *a la carte* that they were allowed to do so by PAL provided that they sign for their orders.

Inasmuch as the shuttle bus had already left by the time private respondents were ready to go to the hotel, PAL offered them P 150.00 to include the fare for the return trip to the airport. Dr. Miranda asked for P 150.00 more as he and his wife, along with all of their baggages, could not be accommodated in just one taxi, aside from the need for tipping money for hotel boys. Upon refusal of this simple request, Dr. Miranda then declared that he would forego the amenities offered by PAL. Thus, the voucher for P 150.00 and the authority for the hotel accommodations prepared by PAL were voided due to private respondents' decision not to avail themselves thereof.

To aggravate the muddled situation, when private respondents tried to retrieve their baggage, they were told this time that the same were loaded on another earlier PAL flight to Surigao City. Thus, private respondents proceeded to the hotel *sans* their baggage and of which they were deprived for the remainder of their trip. Private respondents were finally able to leave on board the first PAL flight to Surigao City only on June 26, 1988. Thereafter, they instituted an action for damages which, after trial as well as on appeal, was decided in their favor.

Petitioner PAL has come to us via the instant petition for review on certiorari, wherein it challenges the affirmatory decision of respondent Court of Appeals<sup>[3]</sup> (1) for applying Articles 2220, 2232 and 2208 of the Civil Code when it sustained the award of the court *a quo* for moral and exemplary damages and attorney's fees despite absence of bad faith on its part; and (2) for not applying the express provisions of the contract of carriage and pertinent provisions of the Warsaw Convention limiting its liability to US\$20.00 per kilo of baggage.

1. Anent the first issue, petitioner argues that there was no bad faith on its part for while there was admittedly a delay in fulfilling its obligation under the contract of carriage with respect to the transport of passengers and the delivery of their baggage, such delay was justified by the paramount consideration of ensuring the safety of its passengers. It likewise maintains that its employees treated private respondents fairly and with courtesy to the extent of acceding to most of their demands in order to mitigate the inconvenience occasioned by the measures undertaken by the airline to ensure passenger safety.<sup>[4]</sup>

It reiterated its position that the off-loading of private respondents' baggage was due to "weight limitations," as lengthily explained by petitioner from an aeronautically technical viewpoint,<sup>[5]</sup> taking into consideration such variable factors as flight distance, weather, air resistance, runway condition and fuel requirement. Given the variable weather conditions, it claimed that the weight limitation for each flight can only be ascertained shortly before take-off. While admittedly there would

be a resulting inconvenience in the accommodations of the passengers and the handling of their cargo, the same is outweighed by the paramount concern for the safety of the flight.

Petitioner moreover impugns the Court of Appeal's allegedly improper reliance on the inaccurate interpretation of the testimony of PAL's baggage service representative, Edgar Mondejar,<sup>[\*]</sup> that private respondents' baggage were off-loaded to give preference to baggage and/or cargo originating from Honolulu. PAL argues that Mondejar's knowledge of what transpired in Honolulu was merely based on the telex report forwarded to PAL's Manila station stating that the off-loading was due to weight limitations.<sup>[6]</sup>

Petitioner enumerates the following incidents as indicative of its good faith in dealing with private respondents: (1) The cancellation of the flight to Surigao City due to mechanical/engine trouble was to ensure the safety of passengers and cargo; (2) PAL offered to shoulder private respondents' preferred accommodations, meals and transportation while in Cebu City with more than the usual amenities given in cases of flight disruption, and gave them priority in the following day's flight to Surigao City; (3) PAL employees did not act rudely towards private respondents and its managerial personnel even gave them special attention; (4) It was reasonable for PAL to limit the transportation expense to P150.00, considering that the fare between the airport and the hotel was only P75.00, and they would be picked up by the shuttle bus from the hotel to the airport, while the request for money for tips could not be justified; and (5) The inadvertent loading of private respondents' baggage on the replacement flight to Surigao City was at most simple and excusable negligence due to the numerous flight disruptions and large number of baggages on that day.

Petitioner strenuously, and understandably, insists that its employees did not lie to private respondents regarding the want of accommodations at the latter's hotel of preference. The only reason why Cebu Plaza Hotel was not initially offered to them by PAL was because of the earlier advice of the hotel personnel that not all the stranded PAL passengers could be accommodated therein. It claimed that it was in accordance with the airline's policy of housing all affected passengers in one location for easy communication and transportation, which accommodations in this instance could be provided by Magellan Hotel. However, upon insistence of the Mirandas on their preference for Cebu Plaza Hotel, Jeremias Tumulak, PAL's passenger relations officer, told them that they could use the office phone and that if they could arrange for such accommodation PAL would shoulder the expenses. This concession, so petitioner avers, negates any malicious intent on its part.

Crucial to the determination of the propriety of the award of damages in this case is the lower court's findings on the matter of bad faith, which deserves to be quoted at length:

"These claims were reasonable and appeared to be supported by the evidence. Thus it cannot be denied that plaintiffs had to undergo some personal inconveniences in Manila for lack of their baggage. It is also highly probable that plaintiffs' scheduled return to Surigao City was upset because of their having to wait for one day for their missing things. Consequently, it was quite evident that the off-loading of plaintiffs'

baggage in Honolulu was the proximate cause of plaintiffs' subsequent inconveniences for which they claimed to have suffered social humiliation, wounded feelings, frustration and mental anguish.

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"In the present case there was a breach of contract committed in bad faith by the defendant airlines. As previously noted, plaintiffs had a confirmed booking on PAL Flight PR 101 from San Francisco to Manila. Therefore plaintiffs were entitled to an assured passage not only for themselves but for their baggage as well. They had a legal right to rely on this.

"The evidence showed that plaintiffs' baggage were properly loaded and stowed in the plane when it left San Francisco for Honolulu. The off-loading or bumping off by defendant airlines of plaintiffs' baggage to give way to other passengers or cargo was an arbitrary and oppressive act which clearly amounted to a breach of contract committed in bad faith and with malice. In the aforecited case, the Supreme Court defined bad faith as a breach of a known duty through some motive of interest or ill will. Self-enrichment or fraternal interest, and not personal ill will, may have been the motive, but it is malice nevertheless (*infra*).

"As correctly pointed out in the Memorandum for Plaintiffs dated June 18, 1990 (pp. 4-5), the following excerpt from the testimony of Edgar Mondejar clearly demonstrated the act of discrimination perpetrated by defendant on the herein plaintiffs (TSN, Edgar Mondejar, Feb. 28, 1990, pp. 26-28), thus:

**Q:** Before a plane departs, your office will see to it the plane loads the exact weight limitation insofar as the cargoes (*sic*) and passengers are concerned, is that correct?

**A:** Yes.

**Q:** And so with the PR 101 flight starting mainland USA, it complied with the weight limitation, passengers and baggages (*sic*) limitation, is that correct?

**A:** Yes.

**Q:** In other words the trip from the mainland USA started in Hawaii to off-load cargoes (*sic*), you complied with the weight limitation and so on?

**A:** Yes.

**Q:** But you are saying upon arriving in Honolulu certain containers were off-loaded?

**A:** Yes.

**Q:** That would be therefore some containers were off-loaded to give way to some other containers starting from Honolulu towards Manila?

**A:** Yes.

**Q:** In other words Mr. Mondejar, preference was given to cargoes (sic) newly loaded at Honolulu instead of the cargoes (sic) already from mainland USA, is that correct?

**A:** Yes.

"The aforesaid testimony constituted a clear admission in defendant's evidence of facts amounting to a breach of contract in bad faith. This being so, defendant must be held liable in damages for the consequences of its action."<sup>[7]</sup> (Corrections indicated in original text.)

The trial court further found that the situation was aggravated by the following incidents: the poor treatment of the Mirandas by the PAL employees during the stopover at Mactan Airport in Cebu; the cavalier and dubious response of petitioner's personnel to the Miranda spouses' request to be billeted at the Cebu Plaza Hotel by denying the same allegedly because it was fully booked, which claim was belied by the fact that Dr. Miranda was easily able to arrange for accommodations thereat; and, the PAL employees' negligent, almost malicious, act of sending off the baggage of private respondents to Surigao City, while they were still in Cebu, without any explanation for this gross oversight.<sup>[8]</sup>

The Court of Appeals affirmed these findings of the trial court by stating that-

"While we recognize an airline's prerogative to off-load baggag(e) to conform with weight limitations for the purpose of ensuring the safety of passengers, We, however, cannot sanction the motion (sic) and manner it was carried out in this case.

"It is uncontroverted that appellees' baggag(e) were properly weighed and loaded in the plane when it left San Francisco for Honolulu. When they reached Honolulu, they were not informed that their baggag(e) would be off-loaded. Ironically, if the purpose of the off-loading was to conform with the weight limitations, why were other containers loaded in Honolulu? The real reason was revealed by Edgar Mondejar, baggage service representative of the appellant. x x x<sup>[9]</sup>

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"As earlier noted, the off-loading of appellees' baggag(e) was done in bad faith because it was not really for the purpose of complying with weight limitations but to give undue preference to newly-loaded baggag(e) in Honolulu. This was followed by another mishandling of said baggag(e) in the twice-cancelled connecting flight from Cebu to Surigao. Appellees' sad experience was further aggravated by the misconduct of appellant's personnel in Cebu, who lied to appellees in denying their request to be billeted at Cebu Plaza Hotel."<sup>[10]</sup>

The Court has time and again ruled, and it cannot be over-emphasized, that a contract of air carriage generates a relation attended with a public duty and any