

KOREAN AIRLINES CO., LTD., PETITIONER, VS. HON. COURT OF APPEALS, THE HON. EDUARDO C. TUTAAN, PRESIDING JUDGE, COURT OF FIRST INSTANCE OF RIZAL, BRANCH V, QUEZON CITY, AZUCENA A...

G.R. No. L-61418. September 24, 1987

Ponente: CRUZ, J.

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CRUZ, J.:

This is one of the many cases that have unnecessarily clogged the dockets of this Court because they should not have been brought to us in the first place.

The issues are mainly factual. They have been resolved by the trial court, which has been affirmed by the respondent court, except as to the award of damages, which has been reduced. We see no reason why the decision had to be elevated to us.

Time and again we have stressed that this Court is not a trier of facts.[1] We leave these matters to the lower courts, which have more opportunity and facilities to examine these matters. We have no jurisdiction as a rule to reverse their findings.[2] The exception invoked is that there is a clear showing of a grave abuse of discretion on their part, but we do not see it here.

We are satisfied from the findings of the respondent court (and of the trial court) that the private respondent was, in the language of the airline industry, "bumped off." She had a confirmed ticket. She arrived at the airport on time. However, she was not allowed to board because her seat had already been given to another passenger. As a result, she suffered damages for which the petitioner should be held liable.

Specifically, petitioner Korean Airlines (hereinafter called KAL) issued to Azucena Tomas a plane ticket to Los Angeles, California, U.S.A., on Flight No. KE 612 departing from the Manila International Airport on July 29, 1977, at 2:20 p.m. She paid the fare of P2,587.88.[3] She and her husband arrived at the KAL check-in counter at 1:50 p.m. of that date[4] and presented her ticket to Augusto Torres, Jr., who was in charge. Torres refused to check her in, saying that the Immigration Office was already closed.[5] Januario Tomas, her husband, rushed to the said office, which was still open, and was told by the immigration officer on duty that his wife could still be cleared for departure. Januario rushed back to Torres to convey this information and asked that his wife be checked in. Torres said this was no longer possible because her seat had already been given to another passenger. His reason was that Azucena had arrived late and had not checked in within forty minutes before departure time.[6]

There no evidence in the record of any rule requiring passengers to check in at least forty minutes before departure time, as invoked by Torres. KAL admits that it has not been able to cite any statutory or administrative requirement to this effect.[7] In fact, the alleged rule is not even a condition of the plane ticket purchased by Azucena.

At the same time, KAL invokes the memorandum-circular of February 24, 1975, issued by the Commission on Immigration and Deportation which says that "all passengers authorized to leave for abroad shall be required to check in with the Immigration Departure Control Officer at least thirty minutes before the scheduled departure." The record shows that Azucena was ready to comply.

If, as Torres said, he gave Azucena's seat to a chance passenger thirty-eight minutes before departure time^[8] instead of waiting for Azucena, then he was intentionally violating the said circular. Significantly, it was proved he was not telling the truth when he said the Immigration Office was already closed although it was in fact still open at the time the private respondents arrived. Moreover, the immigration officer on duty expressed his willingness to clear Azucena Tomas for departure, thus indicating that she was well within the provisions of the memorandum-circular. Torres' refusal to check her in was clearly unjustified.

As it appeared later, the real reason why she could not be checked in was not her supposed tardiness but the circumstance that Torres had prematurely given her seat to a chance passenger. That person certainly had less right to prior accommodation than the private respondent herself.

The claim that the real party in interest is the Gold N. Apparel Manufacturing Corporation and not the private respondent^[9] is also untenable. Counsel for Azucena Tomas declared at the trial that she was suing in her personal capacity.^[10] In testifying about her participation in the said corporation, she was only stressing her status as a respected and well-connected businesswoman to show the extent of the prejudice caused to her interests by the unjustified acts of the petitioner.

It is clear that the petitioner acted in bad faith in violating the private respondent's rights under their contract of carriage and is therefore liable for the injuries she has sustained as a result. We agree with the Court of Appeals, however, that the award should be reduced to P50,000.00 for actual and compensatory damages, P30,000.00 for moral damages, and P20,000.00 for attorney's fees, the exemplary damages to be eliminated altogether.

WHEREFORE, the appealed decision of the respondent court is **AFFIRMED** in toto, with costs against the petitioner.

SO ORDERED.

Teehankee, C.J., Narvasa, and Paras, JJ., concur.
Gancayco, J., on leave.

[1] *Chemplex, Inc. v. Pamatian*, 57 SCRA 409; *Ereñeta v. Bezore*; 54 SCRA 13; *Miguel v. Catalino*, 26 SCRA 234.

[2] *Olango v. Court of First Instance of Misamis Oriental*, 121 SCRA 338; *Tongoy v. Court of Appeals*, 123 SCRA 99.

[3] *Rollo*, p. 19.

[4] *Ibid*.

[5] *Id*.

[6] *Id.*, pp. 19-20.

[7] KAL's Brief in the C.A., p. 34.

[8] *Rollo*, pp. 27-28.

[9] Id., pp. 72-76.

[10] Id., pp. 28-29.

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