

**PHILIPPINE AIR LINES EMPLOYEES ASSOCIATION (PALEA) AND
PHILIPPINE AIR LINES SUPERVISORS' ASSOCIATION (PALSA),
PETITIONERS, VS. PHILIPPINE AIR LINES, INC., RESPONDENT.**

G.R. No. L-31341. March 31, 1976

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

Before US are consolidated petitions to review the Court of Industrial Relations en banc resolution dated October 9, 1969 in CIR Case No. 43-IPA.

In G.R. No. L-31341 (PALEA vs. PAL), petitioners question the date of effectivity of the adjudicated pay differentials due to the monthly-salaried employees of Philippine Air Lines, Inc.

In G.R. No. L-31343 (PAL vs. PALEA), petitioner assails the reversal by the Court of Industrial Relations of its earlier resolution on the method employed by the Philippine Air Lines in computing the basic daily and hourly rate of its monthly-salaried employees.

On February 14, 1963, the Philippine Air Lines Employees' Association (PALEA) and the Philippine Air Lines Supervisors' Association (PALSA) - petitioners in G.R. No. L-31341 and respondents in G.R. No. 31343 commenced an action against the Philippine Air Lines (PAL) in the Court of Industrial Relations, praying that PAL be ordered to revise its method of computing the basic daily and hourly rate of its monthly-salaried employees, and necessarily, to pay them their accrued salary differentials.

Sought to be revised is PAL's formula in computing wages of its employees:

Monthly salary x 12

= x (Basic daily rate)

365 (No. of calendar days in a year)

x = Basic hourly rate

8

The unions would like PAL to modify the above formula in this wise:

Monthly salary x 12
= x (Basic daily rate)
No. of actual working days

x = Basic hourly rate
8

On May 23, 1964, the Court of Industrial Relations, through Presiding Judge Jose S. Bautista, issued an order denying the unions' prayer for a modified wage formula. Pertinent portion of the order reads:

"On the issue of rate of pay PALSAs and PALEAs seek to change the long standing method in PAL of computing the basic daily and hourly rate of monthly salaried employees for the purpose of determining overtime pay, Sunday and legal holiday premium pay, night differential pay, vacation and sick leave pay, to wit, the monthly salary multiplied by 12 and dividing the product thereof by 365 and then the quotient by 8. PALEA and PALSAs claim that the method of computing the basic daily and hourly rate of monthly salaried employees of PAL prior to the implementation of the 40-hour week schedule in PAL should be by dividing the monthly salary by 26 working days, and after the 40-hour week schedule, by dividing the monthly salary by 20 working days, and then dividing the quotient thereof in each case by 8. From the records, however, it appears that for many years since 1952, and even previously, PAL has been consistently and regularly determining the basic and hourly rates of monthly salaried employees by multiplying the monthly salary by 12 months and dividing the product by 365 days to arrive at the basic daily rate, and dividing the quotient by 8 to compute the basic hourly rate. There has been no attempt to revise this formula notwithstanding, the various negotiations PAL had with the unions ever since its operations, and it was only on July 18, 1962, when PALSAs, for the first time, proposed that it be changed in accordance with what is now alleged in the petition. This, however, was a mere proposal by PALSAs for the adoption of a new formula; it was not a demand for the application of a formula claimed to be correct under the law. Under this circumstance, PALSAs and PALEAs are estopped from questioning the correctness and propriety of PAL's method of determining the basic hourly and daily rate of pay of its monthly salaried personnel, and considering the long period of time that elapsed before they brought their petition, are barred from insisting or demanding a different rate of pay formula.

*** ** **

"Upon the foregoing, the Court, therefore, declares PAL's method of computing the basic daily and hourly rate of its monthly salaried employees as legal and proper, and denies the petition of PALSAs and PALEAs.

*** ** ** **"

(pp. 47-48, 49, rec. G.R. No. L-31343).

On May 30, 1964, complaining unions promptly moved for the reconsideration of the above-said order (p. 51, rec. G.R. No. L-31343).

On June 9, 1964, the unions filed their memorandum in support of their motion for reconsideration alleging that the questioned order is (a) contrary to law and (5) contrary to evidence adduced during the trial (p. 53, rec., G.R. No. L-31343).

The unions attributed error to PAL's wage formula, particularly in the use of 365 days as divisor. The unions

contended that the use of 365 days as divisor would necessarily include off-days which, under the terms of the collective bargaining agreements entered into between the parties, were not paid days. This is so since for work done on an off-day, an employee was paid 100% plus 25%, or 100% plus 37-1/2% of his regular working hour rate.

On the issue of prescription, the unions pointed out:

"With respect to the period of prescription, it is clear that since the claim arises from the written contracts or collective bargaining agreements between the petitioner unions and the PAL, the action thereon prescribes in ten years from the time the right of action accrues, in accordance with Article 1144 of the New Civil Code. * * * *"

(p. 68, rec., G.R. No. L-31343).

On June 26, 1964, the Philippine Air Lines answered point by point the unions' memorandum, in a prompt reply.

On October 9, 1969, the Court of Industrial Relations, through Presiding Judge Arsenio I. Martinez, ordered the reversal of its decision dated May 23, 1964 and sustained the unions' method of wage computation.

The industrial court, however, ordered the computation of pay differentials in accordance with the sustained method of computation effective only July 1, 1957.

Said the Court of Industrial Relations in this regard:

"* * * * In this connection, however, it will be noted as previously stated, that this case was considered as an incident of Case No. 39-IPA, in which the issues involved were related to the application to the respondent PAL of the 40-Hour Week Law (Rep. Act 1880) from the date of its effectivity July 1, 1957. * * * *".

"This Court therefore believes that in justice and equity and substantial merits of the case, the aforesaid pay differentials due to the employees involved herein by the application of the correct method of computation of the rate of pay should be paid by the respondent also beginning July 1, 1957" (p. 117, rec., G.R. No. L-31343).

From the above resolution, both parties appealed to this COURT. The Philippine Air Lines filed its appeal petition on December 13, 1969, while PALEA filed its petition for review on certiorari on January 3, 1970.

I

For easy comprehension, WE start with the Philippine Air Lines, Inc. versus Philippine Air Lines Employees Association, Philippine Air Lines Supervisors Association, and the Court of Industrial Relations, G.R. No. L-31343.

In this appeal, PAL emphasizes three assignments of error, to wit:

1. RESPONDENT CIR ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN HOLDING THAT THE METHOD OF COMPUTATION USED BY PAL IN DETERMINING THE BASIC DAILY OR HOURLY RATE OF ITS MONTHLY SALARIED EMPLOYEES WHICH IS:

MONTHLY SALARY x 12
365 (NO. OF CALENDAR DAYS IN A YEAR)
= x (BASIC DAILY RATE)

x = BASIC HOURLY RATE

IS NOT CORRECT, CONSIDERING THAT PAL, A PUBLIC UTILITY WHERE THERE IS WORK EVERYDAY OF THE WEEK FOR MANY YEARS EVEN BEFORE REPUBLIC ACT 602 AND WITH THE CONSENT AND APPROVAL OF THE EMPLOYEES, CONSISTENT WITH SECTION 19 OF REPUBLIC ACT 602 PROHIBITING REDUCTION OF WAGES FOR OFF DAYS - WHICH WAS SUSTAINED BY THIS HONORABLE COURT IN AUTOMOTIVE PARTS & EQUIPMENT CO., INC. VS. JOSE B. LINGAD, G.R. NO. L-26406, OCTOBER 31, 1969 – HAS BEEN TREATING OFF-DAYS, SUCH AS SATURDAYS, SUNDAYS, COMPANY OBSERVED HOLIDAYS OR ANY OTHER DESIGNATED HOLIDAYS AS PAID DAYS.

2. RESPONDENT CIR ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN NOT FINDING THAT RESPONDENT UNIONS, BY THEIR LONG PERIOD OF CONSENT, ACQUIESCENCE, INACTION AND ACCEPTANCE OF BENEFITS THEREUNDER, ARE ESTOPPED AND BARRED FROM CLAIMING THAT PAL'S FORMULA FOR DETERMINING THE BASIC DAILY AND HOURLY RATE OF PAY IS INCORRECT.

3. RESPONDENT CIR ERRED AND ACTED IN EXCESS OF ITS JURISDICTION IN SENTENCING PAL TO PAY DIFFERENTIALS FOR OVERTIME WORK, NIGHTWORK, HOLIDAY AND SUNDAY PAY FROM JULY 1, 1957 CONSIDERING THAT UNDER THE THREE-YEAR PRESCRIPTIVE PERIOD PROVIDED IN SECTION 7-a OF COMMONWEALTH ACT NO. 444, AS AMENDED, THE EIGHT-HOUR LABOR LAW, RESPONDENT UNIONS, ASSUMING THEY HAD ANY CAUSE OF ACTION, COULD RECOVER ONLY FROM FEBRUARY 14, 1960 UP TO THE PRESENT SINCE RESPONDENT UNIONS FILED THEIR ACTION ONLY ON FEBRUARY 14, 1963.

A

PAL's maiden argument has a strong tendency to mislead. In an effort to emphasize that off-days are paid days and therefore should be reckoned with in determining the divisor for computing daily and hourly rate, PAL leans heavily on what it considers as additional payment of 125 or 137½%, as the case may be, of an employee's basic hourly rate, given to a worker who worked on his off-day. PAL would like us to believe that the word "additional" all but accentuates the existence of a regular basic rate; otherwise, the 125% or 137½% shall be in addition to what?

The industrial court, however, had this to say:

"Moreover, it will be noted that before September 4, 1961, a monthly salaried employee of PAL had to work 304 days only in a year, and after said date, he had to work only 258 days in a year, to be entitled to his equivalent yearly salary. When he worked on his off-day, he was paid accordingly (125% or 137%,) indicating that his off-days were not with pay. It seems illogical for said employee to be paid 125% or 137½% of his basic daily rate, if such off-days are already with pay, as indicated by the company" (p. 107, rec., G.R. No. L-31343, italics supplied).

WE agree.

There should hardly be any doubt that off-days are not paid days. Precisely, off-days are rest days for the worker. He is not required to work on such days. This finds support not only in the basic principle in labor that the basis of remuneration or compensation is actual service rendered, but in the ever-pervading labor spirit aimed at humanizing the conditions of the working man.

Since during his off-days an employee is not compelled to work, he cannot, conversely, demand for his corresponding pay. If, however, a worker works on his off-day, our welfare laws duly reward him with a premium higher than what he would receive when he works on his regular working day.

Such being the case, the divisor in computing an employee's basic daily rate should be the actual working days in a year. The number of off-days are not to be counted precisely because on such off-days, an employee is not required to work.

Simple common sense dictates that should an employee opt not to work - which he can legally do - on an off-day, and for such he gets no pay, he would be unduly robbed of a portion of his legitimate pay if and when in computing his basic daily and hourly rate, such off-day is deemed subsumed by the divisor. For it is elementary in the fundamental process of division that with a constant dividend, the bigger your divisor is, the smaller your quotient will be.

It bears emphasis that OUR view above constitutes the rationale behind the landmark ruling, surprisingly, by the same trial Judge Jose S. Bautista of the Court of Industrial Relations, in *National Waterworks and Sewerage Authority vs. NWSA Consolidated Unions, et al.*, (G.R. No. L-18938, August 31, 1964, 11 SCRA 766, 783-784), to which decision WE gave OUR affirmance.

PAL maintains that the NAWASA doctrine should not apply to a public utility like PAL which, from the nature of its operations, requires a whole-year-round, uninterrupted work by personnel. What PAL apparently forgets is that just like it, NAWASA is also a public utility which likewise requires its workers to work the whole year round. Moreover, the NAWASA is a government-owned corporation - to which PAL is akin, it being a government-controlled corporation.

As will later be stated herein, PAL inked with the representative unions of the employees collective bargaining agreements wherein it bound itself to duly compensate employees working on their off-days. The same situation obtained in the NAWASA case, wherein WE held:

"And in the collective bargaining agreement entered into between the NAWASA and respondent unions it was agreed that all existing benefits enjoyed by the employees and laborers prior to its effectivity shall remain in force and shall form part of the agreement, among which certainly is the 25% additional compensation for work on Sundays and legal holidays theretofore enjoyed by said laborers and employees. It may, therefore, be said that while under Commonwealth Act No. 444 a public utility is not required to pay additional compensation to its employees and workers for work done on Sundays and legal holidays, there is, however, no prohibition for it to pay such additional compensation if it voluntarily agrees to do so. The NAWASA committed itself to pay this additional compensation. It must pay not because of compulsion of law but because of contractual obligation." (11 SCRA 766, 776).

The settled NAWASA doctrine should not be disturbed.

B

PAL also vigorously argues that the unions' long standing silence with respect, and acquiescence, to PAL's method of computation has placed them in estoppel to impugn the correctness of the questioned wage formula. PAL furthermore contends that laches has likewise set in precisely, because of such long-standing inaction.

Our jurisprudence on estoppel is, however, to the effect that:

"* * * (I)t is meet to recall that 'mere innocent silence will not work estoppel. There must also be some element of turpitude or negligence connected with the silence by which another is misled to his injury' (Civil Code of the Philippines by Tolentino, Vol. IV, p. 600) * * *" [Beronilla vs. GSIS, G.R. No. L-21723, Nov. 26, 1970, 36 SCRA 44, 46, 55, italics supplied]

In the cases before US, it is not denied that PAL's formula of determining daily and hourly rate of pay has been decided and adopted by it unilaterally without the knowledge and express consent of the employees. It was only later on that the employees came to know of the formula's irregularity and its being violative of the collective bargaining agreements previously executed by PAL and the unions. Precisely, PALS immediately proposed that PAL use the correct method of computation, which proposal PAL chose to ignore.

Clearly, therefore, the alleged long-standing silence by the PAL employees is in truth and in fact innocent silence, which cannot place a party in estoppel.

The rationale for this is not difficult to see. The doctrine of estoppel had its origin in equity. As such, its applicability depends, to a large extent, on the circumstances surrounding a particular case. Where, therefore, the neglect or omission alleged to have placed a party in estoppel is actually fraught with badges of innocence, estoppel cannot be invoked. This was the essence of OUR ruling in the case of Mirasol vs. Municipality of Tabaco (43 Phil. 610, 614). And this, in quintessence, was the compelling reason why in Lodovica vs. Court of Appeals (L-29678, July 18, 1975, 65 SCRA, 154, 158), WE held that a party who had no knowledge of or gave no consent to a transaction may not be estopped by it.

Furthermore, jurisprudence likewise fortifies the position that in the interest of public policy, estoppel and laches cannot arrest recovery of overtime compensation. The case of Manila Terminal Co. vs. CIR (G.R. No. L-9265, April 29, 1957, 91 Phil. 625), is squarely in point. In this case WE intoned:

"The principle of estoppel and laches cannot well be invoked against the Association. In the first place, it would be contrary to the spirit of the Eight-Hour Labor Law, under which, as already seen, the laborers cannot waive their right to extra compensation. In the second place, the law principally obligates the employer to observe it, so much so that it punishes the employer for its violation and leaves the employee or laborer free and blameless. In the third place, the employee or laborer is in such a disadvantageous position as to be naturally reluctant or even apprehensive in asserting any claim which may cause the employer to devise a way for exercising his right to terminate the employment.

"If the principle of estoppel and laches is to be applied, it may bring about a situation, whereby the employee or laborer, who cannot expressly renounce their right to extra compensation under the Eight-Hour Labor Law, may be compelled to accomplish the same thing by mere silence or lapse of time, thereby frustrating the purpose of the law by indirection" (91 Phil. 625, 633, italics supplied).

In another count, the unilateral adoption by PAL of an irregular wage formula being an act against public policy, the doctrine of estoppel cannot give validity to the same (Auyong Hian vs. Court of Tax Appeals, 59 SCRA 110, 112).

II

G.R. No. L-31341 is an appeal from that portion of the en banc resolution of the Court of Industrial Relations dated October 9, 1969 in case 43-IPA making the payment of the adjudicated pay differentials effective only from July 1, 1957.

In their lone assignment of error, the unions argue that pay differentials should be effective February 14, 1953, or

ten (10) years from the date of the filing of their original complaint; because the claim for pay differentials is based on written contracts - i.e., the collective bargaining agreements between PAL and the employees' representative unions - and under Article 1144(1) of the Civil Code, actions based on written contracts prescribe in ten (10) years.

PAL, on the other hand, maintains that the employees' claim for pay differentials is "an action to enforce a cause of action under the Eight-Hour Labor Law (CA No. 444, as amended)" (p. 592, rec., G.R. No. L-31341). As such, the applicable provision is Section 7-a of CA No. 444, which reads:

"Sec. 7-a. Any action to enforce any cause of action under this Act shall be commenced within three years after the cause of action accrued, otherwise such action shall be forever barred; provided, however, that actions already commenced before the effective date of this Act shall not be affected by the period herein prescribed" (As amended by Rep. Act No. 1993, approved June 22, 1957, italics supplied).

Moreover, PAL argues that even assuming that the issue calls for the application of Article 1144(1) of the New Civil Code, a general law, still in case of conflict, Commonwealth Act No. 444, as amended, should prevail because the latter is a special law.

WE believe that the present case calls for the application of the Civil Code provisions on the prescriptive period in the filing of actions based on written contracts. The reason should be fairly obvious. Petitioners' claim fundamentally involves the strict compliance by PAL of the provisions on wage computation embodied in the collective bargaining agreements inked between it and the employees' representative unions. These collective bargaining agreements were: the PAL-PALEA collective bargaining agreement of 1952-53; the PAL-PALEA collective bargaining agreement of 1956-59; the PAL-PALEA collective bargaining agreement of 1959-61 (with Article VI as supplement); the PAL-PALEA agreement of September 4, 1961; the PAL-ACAP collective bargaining agreement of 1952-54; the PAL-ACAP collective bargaining agreement of September 6, 1955; the PAL-ACAP collective bargaining agreement of 1959-61; the PAL-PALSA collective bargaining agreement of 1959-62; and the supplementary PAL-PALSA collective bargaining agreement (pp. 54-55, rec., G.R. No. L-31343).

The three-year prescriptive period fixed in the Eight-Hour Labor Law (CA No. 444, as amended) will apply, if the claim for differentials for overtime work is solely based on said law, and not on a collective bargaining agreement or any other contract. In the instant cases, the claim for overtime compensation is not so much because of Commonwealth Act No. 444, as amended, but because the claim is a demandable right of the employees, by reason of the above-mentioned collective bargaining agreements. That is precisely why petitioners did not make any reference as to the computation for overtime work under the Eight-Hour Labor Law (Secs. 3 and 4, CA No. 444), and instead insisted that work computation provided in the collective bargaining agreements between the parties be observed. Since the claim for pay differentials is principally anchored on the written contracts between the litigants, the ten-year prescriptive period provided by Art. 1144(1) of the New Civil Code should govern. (General Insurance and Surety Corp. vs. Republic, L-13873, January 31, 1963, 7 SCRA 4; Heirs of the Deceased Juan Sindiong vs. Committee on Burnt Areas and Improvements of Cebu, L-15975, April 30, 1964, 10 SCRA 715; Conde vs. Cuenca and Malaga, L-9405, July 31, 1956; Veluz vs. Veluz, L-23261, July 31, 1968, 24 SCRA 559).

Finally, granting arguendo that there is doubt as to what labor legislation to apply to the grievances of the employees in the cases at bar, it is OUR view that that legislation which would enhance the plight of the workers should be followed, consonant with the express pronouncement of the New Civil Code that:

"In case of doubt, all labor legislation and labor contracts should be construed in favor of the safety and decent

living of the laborer" (Article 1702).

WHEREFORE, THE APPEALED RESOLUTION IS HEREBY AFFIRMED, WITH THE MODIFICATION THAT PAY DIFFERENTIALS BE PAID EFFECTIVE FEBRUARY 14, 1953. WITH COSTS AGAINST PHILIPPINE AIR LINES, INC. IN BOTH CASES.

Teehankee, (Chairman), Esguerra, Muñoz Palma, and Martin, JJ., concur.

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