

NAPOLEON DECHOCO, PETITIONER, VS. CIVIL AERONAUTICS BOARD, PHILIPPINE AIR LINES, INC., FILIPINAS ORIENT AIRWAYS, INC., AND AIR MANILA, INC., RESPONDENTS.

G.R. Nos. L-32979-81. February 29, 1972

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

Original petition for certiorari with preliminary injunction to annul and set aside civil Aeronautics Board resolutions Nos. 165 (70), 321 (70) and 330 (70), fixing temporary and permanent rate or fare adjustments of three domestic air carriers, Philippine Air Lines (PAL), Filipinas Orient Airways (FOA) and Air Manila, and dismissing petitioner's objections thereto, based on alleged lack of jurisdiction.

The issue submitted for Our decision is whether authority to fix air carriers' rates is vested in the Civil Aeronautics Board (CAB) or in the Public Service Commission (PSC).

Petitioner Dechoco contends that by the enactment of Republic Act No. 2677 (on 18 June 1960) amending sections 13(a) and 14 of Commonwealth Act No. 146 (the original PSC Act), jurisdiction to control rates of airships was taken away from the Civil Aeronautics Board and revested in the PSC, since Republic Act 2677 impliedly repealed section 10(c) (2) of Republic Act No. 776, passed on 20 June 1952, conferring control over air rates and fares on the CAB.

Respondents aver, on the other hand, that, at the very least, jurisdiction over air fares and rates was, under both statutes, exercisable concurrently by the CAB and the PSC, and that following the rule on concurrent jurisdictions of judicial bodies, the first to exercise or take jurisdiction (CAB in this case) should retain it to the exclusion of the other body.

In resolving the issue posed, it is apposite to review the various laws enacted on the matter.

In 1932, the Philippine (pre Commonwealth) Legislature provided by Public Law No. 3996, in its section 15, that any --

"Person or persons engaged in air commerce shall submit for approval to the Public Service Commission or its authorized representative uniform charges applied to merchandise and passengers per kilometer or over specified distances * * *"

In consonance with said law, the legislative franchise granted in November of 1935 to the Philippine Aerial Taxi Company, Inc. (Act No. 4271) specified that (section 3) --

"The grantee shall fix just, reasonable and uniform rates for the transportation of passengers and freight, subject to the supervision and approval of the Public Service Commission * * *"

The following year the PSC was reorganized by Commonwealth Act No. 146, enacted 7 November 1936. Section 13 thereof granted PSC "general supervision and regulation of, jurisdiction and control over, all public services *

* * " except as otherwise provided. The same section, however, contained the following reservation:

" * * * Provided further, That the Commission shall not exercise any control or supervision over aircraft in the Philippines, except with regard to the fixing of maximum passenger and freight rates * * * "

In the aftermath of World War II the Legislature of the independent Republic of the Philippines passed Republic Act No. 51, on 4 October 1946, authorizing the Chief Executive to reorganize within one year the different executive departments, bureaus, offices, agencies and other instrumentalities of the government, including corporations owned or controlled by it. In the exercise of the broad powers thus conferred, the President of the Philippines, by Executive Order No. 94, of 4 October 1947, in its section 149, abolished the Civil Aeronautics Commission and transferred its functions and duties to the Civil Aeronautics Board created by said Order No. 94, with the following provision:

"The * * * functions provided in section 13 of Commonwealth Act No. 146, pertaining to the power of the Public Service Commission to fix the maximum passenger and freight rates that may be charged by airlines * * are hereby transferred to and consolidated in the Civil Aeronautics Administration and/or Civil Aeronautics Board."

The foregoing transfer of functions was virtually ratified by Republic Act No. 776, effective on 20 June 1952, entitled "An Act to Reorganize the Civil Aeronautics Board and the Civil Aeronautics Administration, to provide for the regulation of civil aeronautics in the Philippines * * * " that delimited the powers of the Board. Section 10 of Act 776 prescribed, inter alia, the following:

" 'Sec. 10. Powers and duties of the Board. — (A) Except as otherwise provided herein, the Board shall have the power to regulate the economic aspect of air transportation, and shall have the general supervision and regulation of, and jurisdiction and control over, air carriers as well as their property, property rights, equipment, facilities, and franchise, in so far as may be necessary for the purpose of carrying out the provisions of this Act.

* * * * *

'(C) The Board shall have the following specific powers and duties:

'(2) To fix and determine reasonable individual, joint, or special rates, charges or fares which an air carrier may demand, collect or receive for any service in connection with air commerce. The Board may adopt any original, amended, or new individual, joint or special rates, charges or fares proposed by an air carrier if the proposed individual, joint, or special rates, charges or fares are not unduly preferential or unduly discriminatory or unreasonable. The burden of proof to show that the proposed individual, joint or special rates, charges or fares are just and reasonable shall be upon the air carrier proposing the same.' "

Latest enactment of the series was Republic Act No. 2677, in effect on 18 June 1960, that amended various sections of Commonwealth Act No. 146, the basic Public Service Act. Among those amended was section 14, which was made to read:

"Sec 14. — The following are exempted from the provisions of the preceding section[1]

* * * * *

"(C) Airships within the Philippines except as regards the fixing of their maximum rates on freight and passengers." (Italics supplied)

Contrary to the views of petitioner Dechoco, there is nothing in Republic Act 2677 that expressly repeals Republic Act No. 776. While section 3 of Republic Act 2677 provides that "All Acts or parts of Acts inconsistent

with the provision of this Act are hereby repealed", the fact is that the derogation was thereby made dependent upon actual inconsistency with previous laws. This is the very foundation of the rule of implied repeal. However, there is nothing in Act 2677 that evidences an intent on the part of the Legislature to set aside the carefully detailed regulation of civil air transport as set forth in Act 776. Said act in itself constitutes a recognition of the need of entrusting regulation, supervision and control of civil aviation to a specialized body.

We find no irreconcilable inconsistency between section 14 of the Public Service Act, as amended by Republic Act 2677, and section 10(c)(2) of the prior Republic Act 776, above quoted, except for the fact that power over rates to be charged by air carriers of passengers and freight are vested in different entities, the CAB and the PSC. Even that will result in no more than a concurrent jurisdiction in both supervisory entities, and not in the divesting of the power of one in favor of the other.

The absence of intent to repeal Republic Act No. 776 by the enactment of Act 2677 is also evidenced by the explanatory note to House Bill 4030 (that later became Act 2677). It expressly stated the desire to broaden the jurisdiction of the PSC "by vesting it with the power to supervise and control maritime transportation * * * except air transportation and warehouses which are now subject to regulation and supervision by the Civil Aeronautics Board and the Bureau of Commerce respectively." [2]

The same legislative intent to maintain the jurisdiction and powers of the CAB appears from a consideration of the legislation subsequent to the enactment of Republic Act 2677. Thus, Republic Act No. 4147, enacted 20 June 1964 (granting an air transportation franchise to Filipinas Orient Airways), and Republic Act No. 4501, passed in 19 June 1965 (granting a similar franchise to Air Manila, Inc.), both uniformly require (in their section 3) that the franchise grantee

"shall fix just and reasonable and uniform rates for the transportation of passengers and freight, subject to the regulations and approval of the Civil Aeronautics Board or such other regulatory agencies as the Government may designate for this purpose." (Italics supplied)

Such references to the Civil Aeronautics Board after the enactment of Republic Act No. 2677 would be difficult to explain if said law had already repealed the power of the CAB over air fares or rates, as contended by petitioner Dechoco.

Be that as it may, the well-established principle is that implied repeals are not favored and consequently statutes must be so construed as to harmonize all apparent conflicts and give effect to all the provisions whenever possible. [3] This rule makes it imperative to reconcile both section 14 of the Public Service Act as amended by Republic Act No. 2677, and section 10(c)(2) of Republic Act No. 776, by recognizing the power of the Civil Aeronautics Board to "fix and determine reasonable individual, joint or special rates, charges or fares" for air carriers (under Republic Act 776) but subject to the "maximum rates on freights and passengers" that may be set by the Public Service Commission (as per Republic Act 2677); so that the rates, charges or fares allowed or fixed by CAB may in no case exceed the maxima prescribed now or to be prescribed in the future by the PSC.

The respondents have suggested that the retention in Republic Act 2677 of the power of the PSC to fix maximum rates on air freight and passengers was the result of legislative inadvertence, considering that in House Bill No. 4030 the phrase conferring such power on the PSC appeared in brackets indicating that said passage was to be eliminated. But however plausible the suggestion should be, this Court is powerless to ignore the express grant of the authority in question in the wording of Republic Act 2677 as finally approved. The elimination of the words "except as regards the fixing of their maximum rates on freight and passengers" from section 14(c) of the Public Service Act, as amended by Republic Act 2677, in order to avoid conflict with Republic Act 776, and to unify jurisdiction and control over civil aviation in the Philippines, can only be obtained from the Legislature itself.

Premises considered, the questioned orders of the Civil Aeronautics Board, asserting its jurisdiction to fix the reasonable fares that air carriers may demand are in accord with law, there being no showing that the Public Service Commission has fixed any maximum rates therefor.

WHEREFORE , the writ of certiorari with preliminary injunction applied for is hereby denied. Costs against petitioner Napoleon Dechoco.

Concepcion, C.J., Makalintal, Zaldivar, Castro, Fernando, Teehankee, Barredo, Villamor and Makasiar, JJ., concur.

[1] Section 13 that defined the jurisdiction and control, supervision and regulation of the PSC over public services.

[2] Cong. Record, House of Representatives, 4th Congress, Vol. III, page 2368.

[3] *Esperat vs. Avila*, L-25922, 30 June 1967, 20 SCRA 596; *People vs. Palmon*, 86 Phil. 350; *People vs. Penas*, 86 Phil. 596; *Villanueva vs. Ortiz*, 58 Off. Gaz., 1318.

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