

DR. TELESFORO GANA, PLAINTIFF-APPELLEE, V. KLM ROYAL DUTCH AIRLINES, DEFENDANT-APPELLANT, AND CATHAY PACIFIC AIRWAYS, LTD., DEFENDANT-APPELLEE.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

On May 12, 2011 plaintiff-appellee and defendant-appellant filed their "JOINT MOTION TO DISMISS"[1] ("Motion to Dismiss" for brevity), praying that the Appeal[2] at bench be dismissed.[3] Plaintiff-appellee and defendant-appellant stated the following, among others:

"Plaintiff-appellee Dr. Telesforo Gana and defendant-appellant KLM Royal Dutch Airlines, by their respective counsels, respectfully move for the dismissal of this case, having fully settled this dispute.

PRAYER

WHEREFORE, it is respectfully prayed that this case be dismissed with prejudice."[4] (Emphasis supplied)

For its part, defendant-appellee, thru counsel,[5] filed a "COMMENT"[6], which stated, among others, that it had no objection or opposition to the Motion to Dismiss[7] that was filed by plaintiff-appellee and defendant-appellant.

Given that plaintiff-appellee and defendant-appellant sought the dismissal of the Appeal[8], and which dismissal was not objected to by defendant-appellee, then plaintiff-appellee and defendant-appellant's prayer in their Motion to Dismiss[9] for the dismissal of defendant-appellant's Appeal[10] is justified.

WHEREFORE, plaintiff-appellee and defendant-appellant's prayer for the dismissal of the Appeal[11] is GRANTED. Our Decision[12] rendered in the instant case to which defendant-appellant KLM Royal Dutch Airlines had earlier filed a Motion for Reconsideration[13], is SET ASIDE.

Consequently, the Appeal[14] at bench is considered DISMISSED, and the case is deemed CLOSED and TERMINATED.

SO ORDERED.

Salazar-Fernando (Chairperson) and Librea-Leagogo, JJ., concur.

[1] Rollo, pp. 165-166.

[2] Rollo, pp. 27-72.

[3] Rollo, p. 165.

[4] Rollo, p. 165.

[5] Rollo, p. 169. October 12, 2011

[6] Rollo, pp. 169-170.

[7] Rollo, pp. 165-166.

[8] Rollo, pp. 27-72.

[9] Rollo, pp. 169-170.

[10] Rollo, pp. 27-72.

[11] Rollo, pp. 27-72.

[12] Rollo, pp. 129-139.

[13] Rollo, pp. 143-151.

[14] Rollo, pp. 27-72.

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