

CIVIL AERONAUTICS BOARD, APPELLEE, VS. PHILIPPINE AIR LINES, INC., APPELLANT.

G.R. No. L-40245. April 30, 1975

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

This appeal from Resolutions Nos. 109(70) and 132(70) of the Civil Aeronautics Board (CAB), imposing a fine of P2,500 upon appellant Philippine Air Lines Inc. (PAL) for making a flagstop at Baguio City on May 12, 1970, in its Flight 213, was originally taken to the Court of Appeals (CA-G.R. No. 45738-R). It was forwarded to this Court by resolution dated February 11, 1975, of the Court of Appeals (First Division) on the ground that only a question of law is involved, the facts being undisputed. Appellant PAL in its manifestation dated February 17, 1975, interposed no objection thereto, stating that notwithstanding that said appeal was properly taken to the Court of Appeals, pursuant to Section 1 of Republic Act 5434 which allows appeal from the Civil Aeronautics Board on pure question of law, "the question of whether or not the Civil Aeronautics Board has authority under the Civil Aeronautics Act to impose penalties" x x x "has not yet been decided by the Supreme Court."

The undisputed facts are:

"The Philippine Airlines Inc. is a grantee of a legislative franchise, Public Act No. 4271, as amended by Republic Acts Nos. 2360 and 2667, whereunder the said airline provides both domestic and international air service. In its domestic service PAL provides, among others, services between Tuguegarao and Manila (designated as Flight 213) and between Baguio and Manila (designated as Flight 205).

"On May 12, 1970, PAL had an excess of twenty (20) passengers from Baguio to Manila who cannot be accommodated in its regular flight. To accommodate these twenty passengers, PAL required the aircraft operating Flight 213 (Tuguegarao to Manila) to pass Baguio City on its way to Manila and pick up these passengers. Flight 213 at that time was carrying only five (5) passengers.

"The following are the additional facts established before, and not disputed by, the Civil Aeronautics Board:

"(a) At the time of the above incident, no other airline served Manila and Baguio. No other airline, therefore, was affected by the aforesaid flagstop.

"(b) The expenses incurred by the PAL in operating the flagstop at Baguio City far exceeded the revenue that it derived from the twenty passengers that it fetched at Baguio City. The flagstop, therefore, was motivated not by profit but solely by PAL's desire to meet a public need for additional service between Baguio and Manila on that date.

"(c) No one, except perhaps the Chairman of the CAB, filed any formal complaint with the CAB.

"Claiming that PAL should have first obtained the permission of the CAB before operating the flagstop and that such failure is a violation of Republic Act No. 776, the CAB imposed a fine of P5,000.00 upon PAL in a resolution, copy of which is attached hereto as Annex 'A'. Upon motion for reconsideration filed by PAL, the CAB reduced the fine to P2,500.00 (See copy of resolution attached hereto as Annex 'B')."

The appellee adopted the statement of facts appearing on pages 1 to 3 of appellant's brief as substantially correct and in addition stated "that Public Act No. 4271, as amended, requires the grantee, Philippine Air Lines Inc. to comply with the provisions of Republic Act No. 776 and the regulations promulgated thereunder from time to time".

The first questioned resolution (No. 109(70)) reads:

"Considering that operation of flag-stops are not authorized and must be operated only with prior approval by the Board and considering further that Philippine Air Line, Inc. has conducted such flagstop for its Flight 212/213 on May 12, 1970 and on previous occasions prior thereto, the board, after conducting hearings thereon and after due deliberations on the explanations of PAL's counsel, resolves, as it is hereby resolved to impose a fine of P5,000.00 against PAL to be paid within ten (10) days from receipt hereof, pursuant to the provisions of Section 42(k) of Republic Act 776." (Underscored for emphasis)

"The Board further resolves to warn PAL that a repetition of the same will be dealt with more severely. Considering, however, that flagstops may have to be undertaken with as short notice as possible, the carriers may notify the technical staff thru the Executive Director of the CAB of their desire to operate such flagstops citing the reasons therefor and the Executive Director may give initial approval thereto, but the same has to be confirmed immediately by the Board at its next regular meeting."

The appellant PAL in its motion for reconsideration of the above CAB Resolution No. 109(70), contended that "there is simply nothing in Republic Act No. 776 in general, nor in Section 42(k) thereof in particular, which expressly empowers this Honorable Board (CAB) to impose a fine and order its payment in the manner pursued in this case and under CAB Resolution No. 109(70)". It is argued that "the power and authority to impose fines and penalties is a judicial function exercised through the regular courts of justice, and that such power and authority cannot be delegated to the Civil Aeronautics Board by mere implication or interpretation".

In the regular meeting held on July 6, 1970, the CAB adopted resolution No. 132(70), to wit:

"After considering the motion of Philippine Air Lines Inc. for the reconsideration of CAB Resolution No. 109(70) the Board resolved to reduce, as it hereby reduces, the amount of fine imposed to P2,500 to be paid fifteen (15) days after receipt hereof. The imposition of the fine is not so much on exacting penalty for the violation committed as the need to stress upon air carriers to desist from wanton disregard of existing rules, regulations or requirements of the government regulating agency, if not the additional risk forced upon the passengers who boarded the aircraft without notice to them of such flagstops or the delays encountered as a result thereof. The same will serve also as a warning to all air carriers from operating flagstops without prior authority." (Underscored for emphasis).

To determine whether the appellee CAB possesses the necessary legal authority to impose a fine as it did in Resolutions Nos. 109(70) and 132(70), the provisions of Republic Act 776 have to be minutely scrutinized. Said law created the Civil Aeronautics Board (CAB) and the Civil Aeronautics Administration so that in the exercise and performance of their powers and duties, they shall consider among other things, "as being in the public interest, and in accordance with the public convenience and necessity" certain declared policies which include —

"(c) The regulation of air transportation in such manner as to recognize and preserve the inherent advantage of, assure the highest degree of safety in, and foster sound economic condition in, such transportation, and to improve the relation between, and coordinate transportation by, air carriers; x x x; (Underscored for emphasis)

"(f) To promote safety of flight in air commerce in the Philippines; x x x" (Sec. 4, Republic Act 776).

The Civil Aeronautics Board "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." (Sec. 10 Republic Act 776). It has the power "to issue, deny, amend, revise, alter, modify, cancel, suspend or revoke, in whole or in part, upon petition or complaint, or upon its own initiative, any temporary operating permit or Certificate of Public Convenience and Necessity" (Sec. 10(c) (1) Republic Act 776). (Underscored for emphasis)

The CAB has the power to "investigate, upon complaint or upon its own initiative, whether any individual or air carrier, domestic or foreign, is violating any provision of this act, or the rules and regulations issued thereunder, and shall take such action, consistent with the provisions of this Act, as may be necessary to prevent further violation of such provision, or rules and regulations so issued" (Section 10(D) Republic Act 776). (Underscored for emphasis)

Likewise, the CAB has the power to "review, revise, reverse, modify or affirm on appeal any administrative decision or order" of the Civil Aeronautics Administrator on matters pertaining to "imposition of civil penalty or fine in connection with the violation of any provision of this Act or rules and regulations issued thereunder." It has the power also "either on its own initiative or upon review on appeal from an order or decision of the Civil Aeronautics Administrator, to determine whether to impose, remit, mitigate, increase, or compromise, such fine and civil penalties, as the case may be." (Sec. 10(F) (G) Republic Act 776). (Underscored for emphasis). The power to impose fines and/or civil penalties and make compromise in respect thereto is expressly given to the Civil Aeronautics Administrator (Sec. 32(17) Republic Act 776).

There is no doubt that the fine imposed on appellant PAL in CAB resolution 109(70) and 132(70) is that fine or civil penalty contemplated and mentioned in the foregoing provisions of Republic Act 776 and not a fine in the nature of criminal penalty as contemplated in the Revised Penal Code, because the "fine" in this case was imposed by the C.A.B. because of appellant PAL's violation of C.A.B. rules on flagstops without previous authority on "May 12, 1970 and on previous occasions", said C.A.B. explaining clearly in its resolution No. 132(70) that the "imposition of the fine is not so much on exacting penalty for the violation committed as the need to stress upon the air carriers to desist from wanton disregard of existing rules, regulations or requirements of the government regulating agency x x x." In other words, it is an administrative penalty which administrative officers are empowered to impose without criminal prosecution. Similar power has been granted to the Commissioners of Immigration and Customs for violation of the Immigration law and Tariff and Customs Code, respectively. (Sec. 44 of Commonwealth Act 613, Immigration Act of 1940, as amended by R.A. 118, 135, 144, 503, 749, 827 and 1901; Sec. 2307 of R.A. 1937, Tariff and Customs Code) The same power has been given to the Public Service Commission in its exercise of an effective administrative regulatory supervision and control over public service enterprises. (Section 21, Chapter IV, Commonwealth Act No. 146, as amended)

We have no quarrel with appellant PAL's contention that the C.A.B. has no power to impose fines in the nature of criminal penalty and that only courts of justice can do so. It could easily be discerned from a scrutiny of the provision on Chapter VII of Republic Act 776, on "Violation and penalties" that whenever the law provides a penalty for a violation involving fine and/or imprisonment (criminal in nature), the words "in the discretion of the court" always appear (Sec. 42 (E) (F) (G) (N) Republic Act 776) for the very simple reason that the C.A.B. is not authorized to impose a criminal penalty, but in those cases where the violation is punishable by a fine or civil penalty, the law does not include the words "in the discretion of the court".

There exists but an insignificant doubt in Our mind that the C.A.B. is fully authorized by law (Republic Act 776) to impose fines in the nature of civil penalty for violations of its rules and regulations. To deprive the C.A.B. of that power would amount to an absurd interpretation of the pertinent legal provision because the CAB is given full power on its own initiative to determine whether to "impose, remit, mitigate, increase or compromise" "fines and civil penalties", a power which is expressly given to the Civil Aeronautics Administrator whose orders or decision

may be reviewed, revised, reversed, modified or affirmed by the CAB. Besides, to deprive the C.A.B. of its power to impose civil penalties would negate its effective general supervision and control over air carriers if they can just disregard with impunity the rules and regulations designed to insure public safety and convenience in air transportation. If everytime the C.A.B. would like to impose a civil penalty on an erring airline for violation of its rules and regulations it would have to resort to courts of justice in protracted litigations then it could not serve its purpose of exercising a competent, efficient and effective supervision and control over air carriers in their vital role of rendering public service by affording safe and convenient air transit.

It is appellant's view that the fine imposed by the CAB was not commensurate with the nature and extent of violation done, since according to its argument the Tuguegarao-Manila flight F213 actually served a public need when it made a flagstop at Baguio on May 12, 1970 to pick up 20 passengers who could not be accommodated in the Baguio-Manila flight. Appellant's argument overlooks the fact that when it violated the rule on unauthorized flagstop, it might have done some public service to the 20 Baguio passengers but to the prejudice and inconvenience of the five Tuguegarao-Manila passengers. The appellant was under obligation to bring the five Tuguegarao-Manila passengers directly to Manila and not to make a flagstop in Baguio City to pick up additional passengers, which is not scheduled in that flight. There is no question that for that plane to descend and ascend at the airport in Baguio City resulted in additional risk to its five Tuguegarao-Manila passengers and also to their inconvenience. Besides, it is an established fact that the C.A.B. imposed the civil penalty not only for appellant's violation of May 12, 1970, but also for violation "on previous occasions" and the "need to stress upon the air carriers to desist from wanton disregard of existing rules, regulation or requirements of the government regulating agency". To Our Mind, the rules regulating flight of air carriers must be strictly complied with because they are designed for the passenger's safety and convenience and violations thereof should not be slightly treated since said violations might result in irremediable disaster. The C.A.B. did not commit any mistake in imposing a civil penalty on appellant for its violation of the rule prohibiting unauthorized flagstop to serve "as a warning to all air carriers from operating flagstops without prior authority".

It appears, however, that the PAL committed the violation of the C.A.B. regulation against flagstops without malice and with no deliberate intent to flout the same. For this reason, the penalty imposed by the C.A.B. may be mitigated and reduced to a nominal sum.

WHEREFORE, the resolution appealed from is modified by reducing the administrative fine imposed on the appellant PAL to ONE HUNDRED PESOS (P100.00).

SO ORDERED.

Castro, (Chairman), Makasiar, Muñoz Palma, and Martin, JJ., concur.

Teehankee, J., in the result.

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