

NATIONAL AIRPORTS CORPORATION, PETITIONER, VS. JOSE TEODORO SR., AS JUDGE OF THE COURT OF FIRST INSTANCE OF NEGROS OCCIDENTAL AND PHILIPPINE AIRLINES, INC., RESPONDENTS.

G.R. No. L-5122. April 30, 1952

Ponente: TUASON, J.

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TUASON, J.:

The National Airports Corporation was organized under Republic Act No. 224, which expressly made the provisions of the Corporation Law applicable to the said corporation. On November 10, 1950, the National Airports Corporation was abolished by Executive Order No. 365 and to take its place the Civil Aeronautics Administration was created. Before the abolition, the Philippine Airlines, Inc. paid to the National Airports Corporation P65,245.00 as fees for landing and parking on Bacolod Airport No. 2 for the period up to and including July 31, 1948. These fees are said to have been due and payable to the Capitol Subdivision, Inc. which owned the land used by the National Airports Corporation as airport, and the owner commenced an action in the Court of First Instance of Negros Occidental against the Philippine Airlines, Inc., in 1951 to recover the above amount. The Philippine Airlines, Inc. countered with a third-party complaint against the National Airports Corporation, which by that time had been dissolved, and served summons on the Civil Aeronautics Administration. The third-party plaintiff alleged that it had paid to the National Airports Corporation the fees claimed by the Capitol Subdivision, Inc. "on the belief and assumption that the third-party defendant was the lessee of the lands subject of the complaint and that the third-party defendant and its predecessors in interest were the operators and maintainers of said Bacolod Airport No. 2 and, farther, that the third-party defendant would pay to the land owners, particularly the Capitol Subdivision, Inc., the reasonable rentals for the use of their lands."

The Solicitor General, after answering the third-party complaint, filed a motion to dismiss on the grounds that the court lacks jurisdiction to entertain the third-party complaint, first, because the National Airports Corporation "has lost its juridical personality," and, second, because the Civil Aeronautics Administration "being an office or agency of the Republic of the Philippines, unincorporated and not possessing juridical personality under the law, is incapable of suing and being sued."

Section 7 of Executive Order No. 365 reads:

"All records, properties, equipment, assets, rights, choses in action, obligations, liabilities and contracts of the National Airports Corporation abolished under this Order, are hereby transferred to, vested in, and assumed by, the Civil Aeronautics Administration. All works, construction, and improvements made by the National Airports Corporation or any agency of the National Government in or upon government airfields, including all appropriations or the unreleased and unexpended balances thereof, shall likewise be transferred to the Civil Aeronautics Administration."

Among the general powers of the Civil Aeronautics Administration are, under Section 3, to execute contracts of

any kind, to purchase property, and to grant concession rights, and under Section 4, to charge landing fees, royalties on sales to aircraft of aviation gasoline, accessories and supplies, and rentals for the use of any property under its management.

These provisions confer upon the Civil Aeronautics Administration, in our opinion, the power to sue and be sued. The power to sue and be sued is implied from the power to transact private business. And if it has the power to sue and be sued on its behalf, the Civil Aeronautics Administration with greater reason should have the power to prosecute and defend suits for and against the National Airports Corporation, having acquired all the properties, funds and choses in action and assumed all the liabilities of the latter. To deny the National Airports Corporation's creditors access to the courts of justice against the Civil Aeronautics Administration is to say that the government could impair the obligations of its corporations by the simple expedient of converting them into unincorporated agencies.

But repudiation of the National Airports Corporation's obligations was far from the intention in its dissolution and the setting up of the Civil Aeronautics Administration. Nor would such scheme work even if the executive order had so expressly provided.

Not all government entities, whether corporate or non-corporate, are immune from suits. Immunity from suits is determined by the character of the objects for which the entity was organized. The rule is thus stated in *Corpus Juris*:

"Suits against state agencies with relation to matters in which they have assumed to act in a private or nongovernmental capacity, and various suits against certain corporations created by the state for public purposes, but to engage in matters partaking more of the nature of ordinary business rather than functions of a governmental or political character, are not regarded as suits against the state. The latter is true, although the state may own the stock or property of such a corporation for by engaging in business operations through a corporation the state divests itself so far of its sovereign character, and by implication consents to suits against the corporation." (59 C. J., 313.)

This rule has been applied to such government agencies as State Dock Commissions carrying on business relating to pilots, terminals and transportation (*Standard Oil Co. of New Jersey vs. U. S.*, 26 Fed. (2d) 480), and State Highway Commissions created to build public roads, and given appropriations in advance to discharge obligations incurred in that behalf (*Arkansas State Highway Commission vs. Dodge*, 26 S W (2d) 879; *State Highway Commission of Missouri vs. Bates*, 269 S W 418.)

The Civil Aeronautics Administration comes under the category of a private entity. Although not a body corporate it was created, like the National Airports Corporation, not to maintain a necessary function of government, but to run what is essentially a business, even if revenues be not its prime objective but rather the promotion of travel and the convenience of the travelling public. It is engaged in an enterprise which, far from being the exclusive prerogative of the state, may, more than the construction of public roads, be undertaken by private concerns.

In the light of well-established precedents, and as a matter of simple justice to the parties who dealt with the National Airports Corporation on the faith of equality in the enforcement of their mutual commitments, the Civil Aeronautics Administration may not, and should not, claim for itself the privileges and immunities of the sovereign state.

The case of *National Airports Corporation vs. Hon. V. Jimenez Yanson et al.*, (89 Phil. 745), relied upon by counsel, is not controlling. That was a labor dispute and can be distinguished from the case at bar in at least one fundamental respect.

Involving labor demands and labor-management relations, any decision in that case would, if given force and

effect, operate prospectively and for an indefinite period against the Civil Aeronautics Administration whose rights and obligations with respect to its officers and employees were regulated by the general law on civil service. Moreover, some of the petitioners might already have ceased. By Sections 5 and 8 of Executive Order No. 365 all employees of the National Airports Corporation were, upon the latter's dissolution, automatically separated from the service, and the part of the personnel whose employment was "necessary and convenient" to the Civil Aeronautics Administration would have to be reappointed and, what was more important, "in accordance with the Civil Service rules and regulations." If the petitioners in that case had been absorbed into the Civil Aeronautics Administration, the matters raised in their petition were outside the jurisdiction of the Court of Industrial Relations, and of this Court on appeal, to entertain. Their rights, privileges, hours of work, and rates of compensation were already governed by the Civil Service Law.

The Philippine Airlines' third-party complaint is premised on the assumption that the National Airports Corporation is still in existence, at least for the limited object of winding up its affairs under Section 77 of the Corporation Law. Our opinion is that by its abolition that corporation stands abolished for all purposes. No trustees, assignees or receivers have been designated to make a liquidation and, what is more, there is nothing to liquidate. Everything the National Airports Corporation had, has been taken over by the Civil Aeronautics Administration. To all legal intents and practical purposes, the National Airports Corporation is dead and the Civil Aeronautics Administration is its heir or legal representative, acting by the law of its creation upon its own rights and in its own name. The better practice then should have been to make the Civil Aeronautics Administration the third-party defendant instead of the National Airports Corporation. The error, however, is purely procedural, not put in issue, and may be corrected by amendment of the pleadings if deemed necessary.

Wherefore, the petition is denied with costs against the Civil Aeronautics Administration.

Paras, C. J., Feria, Pablo, Bengzon, Montemayor, Reyes, and Bautista Angelo, JJ., concur.

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