PHILIPPINE AIR LINES, INC., PETITIONER, VS. LEOPOLDO PKIETO, NATIONAL AIKPORTS CORPORATION AND COURT OP APPEALS, RESPONDENTS.

G.R. No. L-6860. April 18, 1956

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

On March 3, 1949, the National Airports Corporation (hereinafter referred to as the lessor) and Leopoldo Prieto entered into a concession contract (Exhibit A), whereby the latter was granted the exclusive rights to establish, operate, conduct and maintain a Snack Bar within the International Airport, in the municipality of Parañaque, province of Rizal, for a period of two (2) years from March IS, 1949, in consideration of a monthly rental of P300, plus a royalty of three per centum (3%) of the gross sales and the telephone, electrical and water charges. Alleging that Prieto wag delinquent in the payment of said rentals, royalties and charges, on October 27, 1949, the lessor instituted this action for the recovery of P2,777.61, with interest and costs. In his answer to the complaint, Prieto alleged a breach of contract on the part of the lessor, upon the ground that it had allowed the establishment, in a building of the Philippine Air Lines, Inc. (hereinafter referred to as the PAL)—to which the International Airport was leased, for the operation of its airline business—of a store engaged in the same business which was the exclusive right of Prieto to do, under his aforementioned concession, and that he, accordingly, had suffered damages, which he prayed, by way of counterclaim, that the lessor be sentenced to indemnify. Thereafter, the lessor filed against the PAL a third-party complaint, stating that said store in the PAL premises had been opened and maintained by the PAL without the knowledge and consent of the lessor and in violation of the rules and regulations, governing commercial activity within the area of said. airport, which are binding to the PAL, and that, consequently, Prieto had sued the lessor for damages resulting from breach of his concession, and praying that the PAL be sentenced to pay to the lessor such amount as the latter may be required to indemnify Prieto, should he obtain a favorable judgment on his counterclaim. Answering the third-party complaint, the PAL asserted that it had authority to permit, and did permit, the operation of the store in question within its premises in the International Airport; that the lessor had consented thereto; and that, at any rate, said store had been opened and run by the PAL Cooperative Association, a corporation distinct and different from the PAL, which is not responsible for the acts of said association. In due course, the Court of First Instance of Manila rendered a decision the dispositive part of which reads as follows:

> "En vista de todo lo expuesto, el Juzgado dicta sentoncia:
>
> "(a) gobreseyendo Ja demanda contra el demandado;
> "(b) condenando a Ja demandante National Airports Corporation
> a pagar al demandado Leopoldo Prieto la cantidad de P7,823.16, en concepto de danos y perjuicios, y las costas; y
> "(c) condenando a la tercera parte demaadada Philippine Airlines, Inc. a pagar a la demandante National Airports Corporation la referida. eantidad de P7,823.16, eon las costas."

On appeal taken by the PAL, this decision was affirmed by the Court of Appeals. The PAL now seeks a review, by certiorari, of the decision of the latter court.

It is not disputed that the lessor is guilty of breach of its contract with Prieto; that Prieto had, by reason of the operation of the cooperative store, sustained damages which, after deducting the balance of the rentals and the telephone, electric and water charges due from him, amount to the sum stated in the decisions of the court of first instance and the Court of Appeals; and that the lessor should indemnify said amount. The only issue for determination in this appeal is whether the lessor is entitled to, reimbursement from the PAL.. The latter maintains the negative, upon two (2) grounds, namely: (1) that the. lessor had consented to the establishment and operation of said cooperative store; and (2) that the same was organized and maintained by, and belongs to, the PAL Cooperative Association, not the PAL, which is separate and independent from said association. We find no merit in this pretense.

To begin with, the Court of Appeals said in its decision:

> "The allogations that the store of the PAL Cooperative was opened only after proper authority therefor had been obtained is untenable. On this point Zosa testified:
>
> 'A. I went to see Col. Villamor, who was then the general manager of the National Airports Corporation, and talked to him and told him about the intention of these boys in having or forming a cooperative association, and he said it was a very good idea and to go ahead with it, and that they arc supposed to follow the paper work, and I wrote him a letter also about requesting permission to construct in our compound a building for' the use of these boys, which was promised by the management and that they were going to avail themselves of the space for their use.' (t. s. n. p. 137) The letter which he sent to the National Airports for the purpose was never answered."

In other words, said appellate court held that the lessor's alleged consent to the creation and operation of the cooperative store had not been proved. Apart from being conclusive upon us, this finding appears to be fully supported by the record. Indeed, it is admitted that, as early, as February 28, 1949, the lessor had written to the PAL a letter stating that the cooperative store should be closed because it violated existing rules and regulations. Instead of being surprised at the attitude of the lessor as the PAL would have logically reacted, had it secured the lessor's consent to the opening of the cooperative store and of reminding the lessor of its aforementioned consent, had it really been given, and of the inconsistency thereof with its aforesaid attitude, the PAL mildly replied with the statement that said store was catering solely to PAL personnel. Again, on May 10, 1949, Prieto wrote to the lessor protesting against the operation of said cooperative store as a violation of his concession 'contract. On May 23, 1949, the lessor answered with the following letter:

> "May 23, 1049
>
> Atty. Alfredo Casimiro
> No. 119-W, Bulacan Street
> Tondo, Manila
>
> Dear Sir:
>
> This is in reply to yours of May 30. We are fully aware and in full sympathy with your petition. We have therefore written a communication of the Philippine Air Lines, Inc., giving them fifteen (15) days after the receipt of our letter to close the PAL Cooperative Store. Failure on their part to comply, shall cause us to take the proper legal action against them.
>
> Rest assured that we are doing all we can for the satisfaction of our concessionaires.

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Respectfully yours,

Mariano C. Reyes

General Manager

On the same date, the lessor sent to the PAL a communication, the pertinent part of which we quote:

* * * * * * * *

> "While it may be true that the PAL Cooperative Store caters only to PAL personnel, yet it is equally true that it is engaged in the selling of goods and commodities which have been exclusively granted to the Airline Snack Bar in the PAL area: The Airline Snack Bar is paying 3 per cent royalties on its gross sales, monthly rentals and water, charges to the National Airports Corporation, which the PAL Cooperative Store is not. The Airline Snack Bar has a contract with the National Airports Corporation, while the PAL Cooperative Store has none. The operation of your cooperative store causes us to be placed in some embarrassment, as you may gather from the enclosed copy of the letter addressed to us by the lawyer of Mr. Leopoldo Prieto, concessionaire for the operation of the Airline Snack Bar. It may be true that the operation' of your cooperative store is for. the benefit and welfare of your employees, but, unfortunately, you failed to secure the necessary 'permission from this Corporation so that you could legally commence and continue operating the same. Having failed to secure such necessary permission constitutes an infringement of our regulations,
>
> * * * Failure on your part to close the PAL Cooperative Store within fifteen (15) days after receipt of this letter shall cause us to take the proper legal action against you regarding this matter." (Italics supplied.)

* * * * * * * *

It should be noted that the PAL is specifically charged, in this letter, with failure to secure, from the lessor, the necessary permission for the operation of the cooperative store. Had such permission been actually given, said letter would have provoked the indignation and a sharp protest of the PAL. Yet, it did not do so. Instead, the PAL replied on June 14, 1949, advising the lessor that said letter had been referred to the PAL Cooperative Store, and expressing the hope that the lessor would refrain from taking any further action until after it had heard from a representative of said store. In short, the behaviour of the lessor and the PAL shows beyond doubt that the former had not authorized the establishment and operation of said cooperative store.

With respect to the personality of the PAL Cooperative Association, which is said to be independent of that of the PAL, suffice it to say that the PAL is not sued, and has not been sentenced, for the acts of said association. Plaintiff's action and the decisions against the PAL are based upon its own acts, for which the PAL cannot disclaim responsibility, namely: for having expressly authorized— and even abetted, by giving the space and the facilities necessary therefor—the organization and operation, within its premises in the International Airport, of said cooperative store, in violation of the rules and regulations governing the business activities within the area of said airport,, which rules and regulations are binding on the PAL.

Wherefore, the decision appealed from, is hereby affirmed, with costs against the Philippine Air Lines, Inc. So ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Jugo, Bautista Angela, Labrador and Reyes, J. B. L., JJ., concur.

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