

**FERMIN Z. CARAM, JR. AND ROSA O. DE CARAM, PETITIONERS, VS.  
THE HONORABLE COURT OF APPEALS AND ALBERTO V. ARELLANO,  
RESPONDENTS.**

*G.R. No. L-48627. June 30, 1987*

Ponente: CRUZ, J.

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**CRUZ, J.:**

We gave limited due course to this petition on the question of the solidary liability of the petitioners with their co-defendants in the lower court[1] because of the challenge to the following paragraph in the dispositive portion of the decision of the respondent court:\*

"1. Defendants are hereby ordered to jointly and severally pay the plaintiff the amount of P50,000.00 for the preparation of the project study and his technical services that led to the organization of the defendant corporation, plus P10,000.00 attorney's fees;"[2]

The petitioners claim that this order has no support in fact and law because they had no contract whatsoever with the private respondent regarding the above-mentioned services. Their position is that as mere subsequent investors in the corporation that was later created, they should not be held solidarily liable with the Filipinas Orient Airways, a separate juridical entity, and with Barretto and Garcia, their co-defendants in the lower court,\*\* who were the ones who requested the said services from the private respondent.[3]

We are not concerned here with the petitioners' co-defendants, who have not appealed the decision of the respondent court and may, for this reason, be presumed to have accepted the same. For purposes of resolving this case before us, it is not necessary to determine whether it is the promoters of the proposed corporation, or the corporation, itself after its organization, that shall be responsible for the expenses incurred in connection with such organization.

The only question we have to decide now is whether or not the petitioners themselves are also and personally liable for such expenses and, if so, to what extent.

The reasons for the said order are given by the respondent court in its decision in this wise:

"As to the 4th assigned error we hold that as to the remuneration due the plaintiff for the preparation of the project study and the pre-organizational services in the amount of P50,000.00, not only the defendant corporation but the other defendants including defendants Caram should be jointly and severally liable for this amount. As we above related it was upon the request of defendants Barretto and Garcia that plaintiff handled the preparation of the project study which project study was presented to defendant Caram so the latter was convinced to invest in the proposed airlines. The project study was revised for purposes of presentation to financiers and the banks. It was on the basis of this study that defendant corporation was actually organized and rendered operational. Defendants Garcia and Caram, and Barretto became members of the Board and/or officers of defendant corporation. Thus, not only the defendant corporation but all the other defendants who were involved in the preparatory stages of the incorporation, who caused the preparation and/or benefited

from the project study and the technical services of plaintiff must be liable."[4]

It would appear from the above justification that the petitioners were not really involved in the initial steps that finally led to the incorporation of the Filipinas Orient Airways. Elsewhere in the decision, Barretto was described as "the moving spirit." The finding of the respondent court is that the project study was under-taken by the private respondent at the request of Barretto and Garcia who, upon its completion, presented it to the petitioners to induce them to invest in the proposed airline. The study could have been presented to other prospective investors. At any rate, the airline was eventually organized on the basis of the project study with the petitioners as major stockholders and, together with Barretto and Garcia, as principal officers.

The following portion of the decision in question is also worth considering:

"x x x. Since defendant Barretto was the moving spirit in the pre-organization work of defendant corporation based on his experience and expertise, hence he was logically compensated in the amount of P200,000.00 shares of stock not as indus-trial partner but more for his technical services that brought to fruition the defendant corporation. By the same token, We find no reason why the plaintiff should not be similarly compensated not only for having actively participated in the prepa-ration of the project study for several months and its subsequent revision but also in his having been involved in the pre-organization of the defendant corporation, in the preparation of the franchise, in inviting the interest of the financiers and in the training and screening of personnel. We agree that for these special services of the plaintiff the amount of P50,000.00 as compensation is reasonable."[5]

The above finding bolsters the conclusion that the petitioners were not involved in the initial stages of the organization of the airline, which were being directed by Barretto as the main promoter. It was he who was putting all the pieces together, so to speak. The petitioners were merely among the financiers whose interest was to be invited and who were in fact persuaded, on the strength of the pro-ject study, to invest in the proposed airline.

Significantly, there was no showing that the Filipinas Orient Airways was a fictitious corporation and did not have a separate juridical personality, to justify making the peti-tioners, as principal stockholders thereof, responsible for its obligations. As a bona fide corporation, the Filipinas Orient Airways should alone be liable for its corporate acts as duly authorized by its officers and directors.

In the light of these circumstances, we hold that the petitioners cannot be held personally liable for the compensation claimed by the private respondent for the services performed by him in the organization of the corporation. To repeat, the petitioners did not contract such services. It was only the results of such services that Barretto and Garcia presented to them and which persuaded them to invest in the proposed airline. The most that can be said is that they benefited from such services, but that surely is no justification to hold them personally liable therefor. Otherwise, all the other stockholders of the corporation, including those who came in later, and regardless of the amount of their shareholdings, would be equally and personally liable also with the petitioners for the claims of the private respondent.

The petition is rather hazy and seems to be flawed by an ambiguous ambivalence. Our impression is that it is opposed to the imposition of solidary responsibility upon the Carams but seems to be willing, in a vague, unexpressed offer of compromise, to accept joint liability. While it is true that it does here and there disclaim total liability the thrust of the petition seems to be against the imposition of solidary liability only rather than against any liability at all, which is what it should have catego-rically argued.

Categorically, the Court holds that the petitioners are not liable at all, jointly or jointly and severally, under the first paragraph of the dispositive portion of the challenged decision. So holding, we find it unnecessary to

examine at this time the rules on solidary obligations, which the parties - needlessly, as it turns out - have belabored unto death.

WHEREFORE, the petition is granted. The petitioners are declared not liable under the challenged decision, which is hereby modified accordingly. It is so ordered.

Yap, (Chairman), Narvasa, Melencio-Herrera, Feliciano, and Sarmiento, JJ., concur.  
Gancayco, J., no part. See page 1.

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[1] Rollo, p. 66.

\* Gancayco, J., ponente, with Relova and Sison, JJ.

[2] Decision, p. 16.

\*\* Judge Pedro C. Navarro, presiding.

[3] Rollo, pp. 10, 97.

[4] Decision, pp. 14-15.

[5] Ibid., p. 11.

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