

**PHILIPPINE AIR LINES, INC., PETITIONER, VS. ANTONIO BALANGUIT, ET AL., (PUBLIC UTILITIES EMPLOYEES ASSOCIATION [FEATI CHAPTER] AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.**

*G.R. No. L-8715. June 30, 1956*

Ponente: MONTEMAYOR, J.

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**MONTEMAYOR, J.:**

This is a petition for certiorari filed by Philippine Air Lines, Inc. (later referred to as the PAL) against Antonio Balanguit, et al., (Public Utilities Employees Association [FEATI Chapter]—later referred to as the employees and the Court of Industrial Relations (CIR) to review the order of the latter dated December 10, 1954, directing the PAL "to pay the money value of whatever vacation and sick leave might have accrued to the employees" listed in the petition of Balanguit, et al., from August 1, 1946 up to June 15, 1947. For the facts of the case, we adopt and reproduce the statement of facts made by petitioner in its petition which the employees in their answer admit to be substantially correct.

"1. Sometime before May 21, 1947, the Philippine Air Lines, Inc. (hereinafter referred to as PAL for brevity) purchased and acquired a majority of the shares of the Far Eastern Air Transport, Inc. (hereinafter referred to as FEATI, also for brevity). Those two airlines were, previous to the said purchases, then competing in various air routes through the Philippines, with the result that both companies were losing and it became necessary to maintain only one airline. The purchase gave rise to the problem of what to do with the FEATI employees. After some negotiations between the representatives of the FEATI Employees Association and the PAL, the parties finally reached an agreement on May 21, 1947, whereby the PAL agreed to absorb some 70 per cent of the FEATI employees, and the said employees agreed to work for PAL under the same terms and conditions as they worked for the FEATI until such time as they come to a definite understanding. The pertinent portion of the aforesaid Agreement reads as follows:

'1. That the PAL will absorb all the employees and laborers that could possibly be absorbed by them belonging to the Public Utilities Employees Association FEATI Chapter, and that these employees and laborers are to work with the PAL in accordance with the provisions of the Collective Bargaining Agreement entered into between/ the previous Management of FEATI and the representatives of the Public Utilities Employees Association FEATI Chapter, dated August 1, 1946, until such time as the said Association and the PAL Employees organization come to a definite understanding.'

A certified copy of the said Agreement is hereto attached and made a part hereof an Annex "A" of this petition.

"2. The Collective Bargaining Agreement with the FEATI referred to in the above employment agreement of May 21, 1947 of the Public Utilities Employees Association with the PAL was their Industrial Agreement of August 1, 1946, the pertinent portion of which granted the said employees certain privileges, among which were:

IV. Vacation and Sick Leave.—The employees will be entitled to twelve (12) days vacation leave and twelve

(12) days sick leave with pay every year, which may be cumulative.'

A certified copy of the said Industrial Agreement is hereto attached and made a part hereof as Annex "B".

"3. On July 9, 1947, the PAL reached a 'definite understanding' with the Public Utilities Employees Association aforesaid whereby they entered into an agreement cancelling the agreements of May 21, 1947 and August 1, 1946, and declaring them 'void and of no further force and effect.' It also provided for the laying off of all the FEATI employees as of June 15, 1947 and the payment to them of one and a half month's separation pay which amounted, roughly to P150,000.00.

A certified copy of said Agreement is hereto attached and made a part hereof as Annex "C".

"4. On November 11, 1952, almost six years from the time they were laid off, the Public Utilities Employees Association aforesaid filed a petition with the Court of Industrial Relations praying that the PAL be ordered to pay them the twelve (12) days vacation leave and twelve (12) days sick leave with pay, from August 1, 1946, which had already accrued at the time they were laid off on June 15, 1947.

"5. The PAL, in its Answer to the Employees' petition, denied liability, alleging that it was not a party to the Agreement of August 1, 1946. The said employees were absorbed by the PAL only on May 21, 1947 and were laid off on June 15, 1947.

"6. On December 10, 1954, the Court of Industrial Relations, through Associate Judge V. Jimenez Yanson, issued an Order requiring the PAL to pay the said employees the money value of whatever vacation and sick leave might have accrued to the said employees from August 1, 1946 to June 15, 1947."

According to the PAL the amount involved, namely, the money equivalent of the vacation and sick leave which it is directed to pay by the CIR is roughly about P100,000.00. The question to determine is whether or not the PAL is legally liable for the payment of this amount. It is unfortunate that the final agreement of July 9, 1946, between the PAL and FEATI on one side and the Employees on the other, failed to make any mention whatsoever about the money equivalent of this vacation and sick leave, whether it was payable or not and if payable, by whom. There is no question that this leave was earned by the employees from the FEATI for the services rendered to it by them from August 1, 1946 (the date of the industrial agreement between them and the FEATI, when they were accorded this right to twelve (12) days vacation leave and twelve (12) days sick leave for every year of service) up to May 21, 1947, when they ceased to render said service to the FEATI. For those employees who were absorbed and continued to render service to the PAL from May 21, 1947 to June 15, 1947 (a period of less than one month), when they were all laid off, they may be said to have earned the corresponding leave from the PAL. Did the PAL assume this obligation of the FEATI to pay the equivalent of this leave which the employees earned from the FEATI? Nothing is said in the agreement of July 9, 1947. The employees claim and also the CIR, though indirectly, that when the PAL bought out the FEATI the former assumed all the rights and obligations of the latter. This is too sweeping a statement. In some cases, when one company buys out another and continues the business of the latter company, the buyer may be said to assume the obligations of the company bought out when said obligations are not of considerable amount or value, specially when incurred in the ordinary course of trade, and when the business of the latter company is continued. However, when said obligation is of extraordinary value, as in this case, amounting to about P100,000, and the FEATI was bought out not to continue its business but to stop its operation in order to eliminate competition, as shown by the fact that all the employees of the FEATI were laid-off, we cannot say that the vendee assumed all the obligations of the rival airline.

What the employees should have done at the time of the negotiation among the PAL, the FEATI and themselves preparatory to the execution of the agreement of July 9, 1947, was to raise the question as to who would pay them

the equivalent of the vacation and sick leave already earned by them under the FEATI. Had they insisted on its payment, the FEATI could perhaps have been made to pay unless, of course, the PAL agreed to assume the obligation. When they (employees) failed to raise that question or have it embodied in the agreement, said failure may be regarded as a waiver of their right. And when they received a separation pay equivalent to one and one half months and then kept quiet about their vacation and sick leave for a period of more than five years, there is every reason to believe that there was actually such renunciation and waiver. It would be no surprise if this separation pay was understood and agreed upon by all parties to include the equivalent of leave already earned by the employees. It may be recalled that the separation pay was not only for one month but it was for one month and a half, exceeding the "mesada" provided for in the Code of Commerce (still in force in 1947) by half a month. It is highly possible that the extra half month pay was to take care of the vacation and sick leave, especially when we consider the fact that at the time of separation on June 15, 1947, the employees had, for purposes of earning the leave, not yet completed one year service (from August 1, 1946 to June 15, 1947). Anyway, even assuming for a moment that the employees were entitled to the payment of said leave, they were guilty of laches. It would be unfair now to demand this payment from the PAL after more than five years when the papers and the records of the service of said employees from August 1, 1946 to May or June, 1947, may no longer exist; when the FEATI has long ceased operations and has long ceased to exist and when its officials who were in a position to determine which employees because of their faithful, efficient and continuous service were entitled to leave and for how many days, may no longer be available.

"The purpose of vacation is to afford to a laborer a chance to get a much needed rest to replenish his worn out energies and acquire a new vitality to enable him to efficiently perform his duties, and not merely to give him additional salary or bounty. This privilege must be demanded in its opportune time and if he allows the years to go by in silence, he waives it. It becomes a mere concession or act of grace of the employer." (Sun-Ripe Coconut Products, Inc. vs. National Labor Union, 97 Phil., 691; 51 O.G. 6133.)

In view of the foregoing, the petition for certiorari is granted, and the order of the CIR of December 10, 1954, and the resolution of the CIR in banc of December 29, 1954, are set aside, and the complaint of the employees (Association) against the PAL in Case No. 89-V(2) is hereby dismissed, with costs.

Paras, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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