

PHILIPPINE AIRLINES, INC., PETITIONER, VS. NATIONAL LABOR RELATIONS COMMISSION, EDGARDO FERRER AND DOMINADOR ZAPANTA, RESPONDENTS.*G.R. No. 102411. August 10, 1993*

Ponente: NARVASA, C.J.

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The case at bar had its beginning in a robbery committed against a Japanese national identified as Akira Saikyo, a passenger on a Philippine Airlines (PAL) flight bound for Singapore on November 13, 1984. While the aircraft was still at the Manila International Airport, his attache case was forcibly opened and from it was taken some money: Y500,000.00 and US\$400.00.[1]

According to Vilma Saludario, a lady security guard of the Lanting Security and Watchman Agency (LSWA) -- contracted by PAL to provide security services at the international airport -- at about 3 o'clock in the afternoon of that day, November 13, 1984, she was visited at her residence by another security guard of the same agency, Francis P. Dagui. At that time, Dagui was living with a certain "Lolit" in a house near Vilma's own. Dagui said to Vilma, "Vi, paki-iwan ko muna sa iyo itong pera ** dahil wala si 'Lolit.ss'" The money consisted of "20 pcs. Yen and US \$23 - 2 pcs. \$10 and 3 pcs. \$1.00." Dagui came back an hour or so later, however, and got the money back from Vilma Saludario.[2]

Other witnesses deposed on Francis Dagui's subsequent activities. On November 14, 1984, another LSWA guard named Dumpit saw Dagui counting some dollar bills near a store. Dumpit reported this to his Supervisor, Dimapinto T. Limbona, who in turn promptly reported it to his superiors, Lt. Magbanua, Col. Trinidad (PAL Security Coordinator) and Mr. Chiong (PAL Security). On instructions of the latter, Limbona talked to Dagui about his possession of the foreign currency. Dagui admitted that he indeed had "20 pieces of 10,000-yen bills," which was "part of his share given to him by some station loaders of PAL whom he named as Zapanta, Lopez and Ferrer;" and that he had seen that the three also had "several hundred dollar bills." Dagui offered to give him P5,000.00 to keep silent. Limbona told his superiors about this, and they then drew up a plan to entrap Dagui. Accordingly, Limbona went back to Dagui and suggested they talk at "the ICT Container Area." There, Dagui handed Limbona an envelope -- later discovered to contain P1,000.00 -- saying it was part of the latter's share to keep quiet. At that precise moment, PAL Security Agents Garcia and Chiong, and MISG Sgt. Fermin suddenly approached and arrested Dagui. Dagui was thereupon brought to the MISG Office at Camp Bagong Diwa, Taguig, for investigation.[3]

Under questioning, Dagui disclosed that a PAL employee by the name of Bonifacio Rodriguez had forcibly opened an attache case (which had been "checked-in" and loaded at the rear compartment of a PAL airplane bound for Singapore [Flight PR 501]) and taken from it an envelope containing Japanese and American currency; that the money had thereafter been divided among Rodriguez, Dagui, and other PAL employees, including Dominador Zapanta, Cesar Lopez, Edgardo Ferrer, and Wilfredo R. Omar. Dagui also surrendered to the officers

the sum of P8,550.00, representing the balance of his share.[4]

The employees thus implicated, Zapanta, Lopez, Ferrer, and Omar, were also investigated at the MISG office;[5] and on November 26, 1984, together with Francis P. Dagui, they all signed and swore to a hand-written document reading as follows:[6]

"RESIGNATION

26 NOVEMBER '84

SA KINAUKULAN,

KAMING NAKALAGDA SA IBABA AY PAGKATAPOS KAMING UMAMIN SA IMBESTIGADOR NG MISG PCM NA NAGKAROON KAMI NG PARTE SA KUWARTANG KINUHA NI BONIFACIO RODRIGUEZ, KASAMA NAMING STATION LOADER, PAL-MIA, SA ISANG BAGAHE NASA LOOB NG REAR COMPARTMENT PR 501 NUONG IKA-13 NG NOB '84, KAMI NGAYON AY KUSANG LOOB NA NAGBIBITIW (RESIGNATION) ** SA AMING MGA KANYA-KANYANG TUNGKULIN SA MIA-PAL. NA ANG PAGBIBITAW NAMING ITO AY KUSANG LOOB NAMING KAGUSTUHAN, WALANG NAMILIT, NANAKOT O NAGTURO SA AMIN.

1. S/ FRANCIS P. DAGUI 2. S/ ZAPANTA, DOMINADOR JR.

3. S/ CESAR LOPEZ 4. S/ EDGARDO FERRER

5. S/ WILFREDO R. OMAR."

At the bottom of the document appear the following typewritten jurat and certification, to wit:

"SUBSCRIBED AND SWORN to before me this 26th day of November 1984 at Camp Bagong Diwa, Taguig, Metro Manila.

s/ Administering Officer

CERTIFICATION

I HEREBY CERTIFY that I have personally examined the affiants and that I am satisfied that they voluntarily executed and understood their voluntary resignation.

s/t/ CAPT. JESUS A VERZOSA, PC

Administering Officer."

Dagui, Zapanta, Lopez, Ferrer and Omar were thereafter no longer allowed to work; and their joint resignation was eventually formally accepted on January 12, 1985, with forfeiture of separation benefits, with prejudice to future re-employment, and without prejudice to the criminal case of qualified theft.[7]

As regards Bonifacio Rodriguez, who unlike his fellow employees, had not opted to resign, administrative disciplinary proceedings were instituted against him.

About fourteen (14) months after their resignation, or more precisely on January 14, 1986, Ferrer, Zapanta, Lopez and Omar filed a complaint with the NLRC Arbitration Branch, claiming they were coerced into signing the joint letter of resignation and had been dismissed by PAL from their employment without due investigation. Subsequently, on motion of PAL, and with the conformity of the complainants' counsel, the complaint was dismissed as regards Omar and Lopez on the ground of "lack of interest to prosecute their respective claims." [8] The case proceeded to judgment only with respect to Ferrer and Zapanta. The Arbiter's decision, dated April 25, 1990, [9] was in favor of the two (2) remaining complainants, and ordered PAL -

"1. To reinstate complainants Edgardo Ferrer and Dominador Zapanta Jr. to their former position without loss of seniority rights and to pay them backwages for three (3) years without qualifications and or deductions of earnings elsewhere;

2. To pay attorney's fees equivalent to ten percent (10%) of the judgment award."

This decision was, on appeal taken by PAL, affirmed by the National Labor Relations Commission (Second Division), by Resolution dated August 27, 1991.[10] The Commission later denied PAL's motion for reconsideration, by order dated October 16, 1991.[11]

On November 11, 1991, PAL instituted the present special civil action of certiorari, praying that this Court "nullify, reverse and set aside the 27 August 1991 Decision of respondent National Labor Relations Commission, through its Second Division * * and its Resolution dated 16 October 1991 which was received on 22 October 1991."

The respondent Commission sustained the Labor Arbiter's ruling that PAL was "not in a position to attest to the voluntary execution of the resignation paper for the simple reason that no personnel of officer from Philippine Airlines actively participated or at least witnessed all the stages of the custodial investigations conducted by the MISG," that the employees concerned reported to PAL "immediately after their release ** (but were barred) from entering the premises;" and the request of their union, PALEA, for an administrative investigation was not acted on by PAL.[12] The Commission also ruled that PAL had "failed to establish the voluntariness of the (complainant employees') resignation" and to refute the (latter's) allegations that they were tortured and forced in executing the letter of resignations.[13] It found suspicious the fact "that the letter of resignation was a joint one," opining that "(i)f there was really voluntariness on the part of the complainants, ** it is but natural that they should have executed individual letters of resignation." [14] It ruled, finally, that PAL had not accorded due process to the employees concerned and that it "cannot rely on the investigations made by MISG resulting into the execution of the letter of resignation **." [15]

The Labor Arbiter's finding, sustained by respondent Commission, that "no personnel or officer from Philippine Airlines actively participated or at least witnessed all the stages of the custodial investigations conducted by the MISG," appears to have unaccountably disregarded relevant testimony to the contrary, not shown to be incredible or otherwise unreliable.

Amando Garcia, senior security agent of PAL, testifying before the Labor Arbiter, inter alia declared that he had actually seen the employees execute the letter of resignation; that the complainant-employees had "actually pleaded to Sgt. Ordinario, the one handling the case at MISG, not to prosecute them criminally and if they could just possibly (be) allowed to just resign ** they will surrender the money which is their share of the loot," and that he had obtained "clearances" from PAL to allow said employees to resign.[16] The Labor Arbiter himself quotes Garcia's testimony[17] to the effect that he had found the employees at the MISG Investigating Unit; that he was already there when two of the complainant-employees surrendered; that said employees had "actually pleaded to Sgt. Ordinario **, etc.," supra, and that said employees did in fact surrender the money to Sgt. Ordinario, and that he (Garcia) had obtained from his superiors the "clearance" sought, i.e., forbearance to prosecute the employees criminally.[18]

The Labor Arbiter brands Garcia's testimony as "vacillating" and self-contradictory because although he had earlier said that when he went to the MISG Office he "already find (sic)" the three employees, he later said that he was "already there" when two (2) of the complainants surrendered." The inconsistency is insignificant, more apparent than real, and appears to be due to deficiency of language more than anything else. The Arbiter also opines that Garcia could not have been there because had he been there, so it is theorized, the

complainant-employees would have directed their plea not to be prosecuted criminally to him instead of to the officer in charge of the investigation, Sgt. Ordinario. The Arbiter's logic escapes the Court, specially when account is taken of Garcia's germane and confirmatory declaration -- not quoted by the Arbiter -- that before allowing the employees to resign, he (Garcia) had first gone to his superiors and, except as regards Bonifacio Rodriguez, obtained the "clearance" sought by the employees, i.e., that PAL would not prosecute them criminally.[19]

The public respondents' ruling that PAL had "failed to refute the allegations of the complainants that they were tortured and forced in executing the letter of resignations" (sic), or otherwise prove the voluntariness of the joint resignation flies in the teeth not only of Garcia's sworn declarations but also of those of two (2) of the complainants, Cesar Lopez and Wilfredo R. Omar, who testified before the Labor Arbiter prior to the dismissal of their complainants for failure to prosecute, as aforestated.[20] Lopez testified that on the day he signed the joint resignation letter he was "subjected to torture ** but jokingly," i.e., by "gestures to box us which instilled fear" but that they all "knew that they were just joking." [21] For his part, Omar quite categorically declared that he was not tortured before he signed the resignation letter (Exhibit B) or at any other time.[22]

The respondent Commission pronounced the letter of resignation to be "of suspicious nature" because it was executed jointly rather than individually, as was allegedly "but natural." It does not however explain the logic underlying this observation which quite frankly, and like the Arbiter's argument earlier adverted to, escapes this Court.

In fine, if it be true, as respondents opine, that no cause at all existed for termination of the complainant-employees' services, PAL's acts make no sense whatever; if PAL did indeed know them to be innocent, what motive would it have to dismiss them? Were they saboteurs or vandals, or inefficient or lazy workers, etc.? No reason is given by respondents, none appears in the record, for PAL to concoct a case against the complainant-employees and invent an elaborate scenario -- involving, it must be added, a conspiracy with military officers -- to justify termination of their employment. Such a scenario is meaningless except in the context of the employees' complicity in the forcible asportation of the Japanese national's money.

Nor is any rational explanation given, and none is found in the record, why the private respondents chose to defer for more than a year the filing of their complaints for illegal dismissal, if it be true that they were insisting, immediately after they had executed their joint letter of resignation, on returning to work and being accorded their right to due process. The thought cannot be shrugged off that they had strong doubts of proving a cause of action for reinstatement and had opted first to seek employment elsewhere, and that it was only after this option had failed to yield the expected result that they had finally initiated the proceedings at bar.

The decisions under review exhibit so inexplicable a disregard of facts and so strained an attempt at ratiocination as to conduce most persuasively to a conclusion that grave abuse of discretion attended their rendition, requiring their nullification.

WHEREFORE, the petition for certiorari is GRANTED. The Resolution of the Second Division of the National Labor Relations Commission promulgated on August 27, 1991 -- affirming the Labor Arbiter's Decision of April 25, 1990 -- is hereby NULLIFIED AND SET ASIDE, and the private respondents' complaint in Case NLRC-NCR-00-01-156-86 is DISMISSED.

SO ORDERED.

Padilla, Regalado, Nocon, and Puno, JJ., concur.

[1] Rollo, pp. 3, 32, 105

[2] SEE Affidavit of Vilma Saludario executed on Nov. 16, 1984 (Annex E, Petition; Rollo, p. 60)

[3] SEE Affidavits of Dimapinto T. Limbona executed on Nov. 29, 1988 (before Labor Arbiter Ma. Isabel P. Ortiguerra; Annex D, Petition, Rollo, pp. 57-58) and on Nov. 15, 1984 (before Cpl. Jesus Ordinario, MISG, Camp Bagong Diwa, Taguig, MM); Annex D-1, Petition; Rollo, p. 59)

[4] Rollo, p. 5

[5] According to the Solicitor General, "Omar and Lopez were invited for questioning by the Military Intelligence Service Group while Edgardo Ferrer and Dominador Zapanta voluntarily turned themselves in for proper investigation" (Rollo, pp. 92-93).

[6] ANNEX F, Petition, Rollo, p. 61

[7] SEE Exh. 1-A

[8] Rollo, p. 44

[9] Id., pp. 42-56. The Labor Arbiter was Hon. Ma. Isabel P. Ortiguerra; see footnote 2, *supra*.

[10] Id., pp. 30-40. The Resolution was written for the Second Division by Hon. Rustico L. Diokno, with whom concurred Hon. Edna Bonto-Perez; Hon. Domingo H. Zapanta took no part.

[11] Id., p. 41; again Commissioner Zapanta took no part.

[12] Id., pp. 34-35

[13] Id., pp. 36-37

[14] Id., p., 37

[15] Id., pp. 37-38

[16] TSN, June 23, 1988, pp. 16-19

[17] Id., pp. 16, 34 and 35

[18] Rollo, pp. 51-53

[19] TSN, June 23, 1988, pp. 35-36

[20] SEE footnote 8; *supra*

[21] TSN, Feb. 23, 1987, pp. 41-42 *italics supplied*

[22] TSN, Nov. 18, 1986, p. 63

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