

**SPOUSES VICTOR DE LA SERNA, AND MARYBELLE DE LA SERNA,
PETITIONERS, VS. COURT OF APPEALS, OSCAR JEREZA, JR., AND
PHILIPPINE AIRLINES, INC., RESPONDENTS.**

G.R. No. 109161. June 21, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This petition for review on certiorari of the decision rendered by the respondent court in CA-G.R. CV No. 26419 entitled "Spouses Victor de la Serna and Marybelle de la Serna, Oscar Jereza, Jr. and Philippine Airlines, Inc.," promulgated on November 5, 1992, and the resolution of the same court dated January 29, 1993, denying the motion for reconsideration, is brought to the Court allegedly on questions of law.

As found by the respondent court and the trial court, the facts of this case are simple.

Petitioners are residents of Tagbilaran, Bohol, while private respondent Oscar Jereza, Jr. is the Duty Manager of the Passenger Section of private respondent Philippine Airlines, Inc.'s Station at the Mactan Airport, Lapu-Lapu City. At the time of the incident complained of, petitioner Victor de la Serna was the OIC Governor of Bohol.

Petitioners entered into contracts for air carriage for a valuable consideration with Philippine Airlines (PAL) from Manila to Cebu with Tagbilaran as final destination for which they were issued two (2) tickets for the entire trip (Manila/Cebu/Tagbilaran route).

On February 23, 1987, while they were at the Manila Domestic Airport for the Manila-Cebu leg of their trip on PR Flight No. 851 leaving at 6:30 in the morning, petitioners had the bookings for their Cebu--Tagbilaran leg confirmed. The bookings were confirmed for the 4:00 in the afternoon flight (PR 365) from Cebu to Tagbilaran.

Petitioners arrived in Cebu at about 7:40 in the morning of the same day and they immediately presented their tickets to PAL Shift Supervisor Jack Ferrer so they could take the connecting flight (PR 363) to Tagbilaran leaving at 10:30 that morning. Despite assurance from the Shift Supervisor that they will be accommodated, petitioners were not issued boarding passes, hence, they were not able to take PR 363.

Thereafter, petitioners took a private plane to Tagbilaran.

Petitioners alleged in the trial below, and to which the trial court based its findings and conclusions, that they were denied boarding because PAL Duty Manager Oscar Jereza, Jr. harbored ill feeling towards him. He attributed this attitude of Jereza on the events which transpired on February 15, 1987.

On the aforesaid date, it appears that petitioners purchased two (2) PAL tickets at Tagbilaran City for Manila, leaving Tagbilaran at 11:00 in the morning on PR 364 with confirmed bookings up to Cebu City only (Exhibits "A" and "B"). When the petitioners presented these tickets at the Tagbilaran Airport, Rogelio Bernaldez, the local PAL Station Manager, handed to petitioners two (2) checked-in PAL tickets with the information that the same were being given free of charge (FOC) by order of the PAL office in Manila. Upon petitioners' inquiry if the

booking for the connecting flight from Cebu to Manila was confirmed, Bernaldez replied that he had already requested PAL Cebu for the confirmation of the same. Upon arrival in Cebu, petitioners presented their tickets to private respondent Oscar Jereza, Jr. who immediately informed them that PR 154 for Manila leaving at 2:10 that afternoon was already overbooked. There was another flight at 4:00 that afternoon but petitioners were again denied accommodation for the same reason. It was only then when the petitioners learned that they were denied accommodation because they were holding FOC (free of charge or free on carrier) tickets. Armed with the said knowledge, petitioner Victor de la Serna retrieved the FOC tickets and instead presented the revenue tickets which they purchased that day. Exasperated, petitioner Victor de la Serna tore the FOC tickets into pieces. Petitioners were finally able to take the 5:50 in the afternoon flight for Manila using the aforesaid revenue tickets.

On the basis of this incident, petitioners claim that private respondent Oscar Jereza, Jr. wanted to exact vengeance. Records bear out that when petitioner Victor de la Serna asked Jack Ferrer about their boarding passes on the morning of February 23, 1987, the latter replied that they were not issued boarding passes because private respondent Oscar Jereza, Jr. got their tickets for final disposition. When asked for an explanation, Jereza gave three conflicting answers, viz: (a) that the flight was overbooked; (b) that there were many carry-over passengers from the day before; and (c) that petitioners were way down the list of chance passengers but it turned out that they were not even included in the said list.

On February 27, 1987, petitioners filed an action for damages against Oscar Jereza, Jr. and Philippine Airlines, Inc. in the Regional Trial Court of Bohol, Tagbilaran City. After trial on the merits, a decision was rendered, the dispositive portion of which reads:

"PREMISES CONSIDERED, this Court hereby sentences the defendants Philippine Airlines, Incorporated (PAL) and Oscar Jereza, Jr. to pay the spouses plaintiffs Victor de la Serna and Marybelle de la Serna jointly and severally the sum of Two Million Pesos (P2,000,000.00) as moral damages; the sum of One Million Pesos (P1,000,000.00) as exemplary and punitive damages; the sum of Thirteen Thousand Four Hundred Pesos (P13,400.00) as cost of the charter of a private plane; the sum of One Hundred Thousand Pesos (P100,000.00) as attorney's fees; and costs against the defendants.

"SO ORDERED." (Records, pp. 122-123).

Not satisfied therewith, Jereza and PAL appealed to the Court of Appeals where a decision was rendered in due course affirming with modification the assailed decision. Respondent court reduced the moral, exemplary and punitive damages to the combined total amount of P100,000.00, P20,000.00 attorney's fees, P2,400.00 cost of the charter of a private plane and costs.

Hence, the herein petition for review.

The petitioners, while agreeing with respondent court that they are entitled to recover damages, question the reduced award as inadequate and now pray that the same be increased. Petitioners cite social and financial standing as basis for consideration and invoke the following alleged questions of law, to wit:

"I. WHETHER OR NOT THE HONORABLE COURT OF APPEALS' REDUCTION OF THE DAMAGES AWARDED TO PETITIONERS IS IN ACCORDANCE WITH JURISPRUDENCE.

"II. WHETHER OR NOT ARTICLE 2229 OF THE NEW CIVIL CODE APPLIES IN THIS CASE."
(Petition, p. 7; Rollo, p. 9).

After a careful examination of the foregoing, it is apparent that this petition for review raises no substantial questions of law but simply puts in issue the factual findings of the Court of Appeals and the trial court. However, for good reasons, the Court has consistently and emphatically declared that review of the findings of fact of the

Court of Appeals is not a function that it normally undertakes inasmuch as such findings, as a rule, are binding and conclusive (Constantino vs. Mendez, 209 SCRA 18; Alitalia Airways vs. Court of Appeals, 187 SCRA 763; Remalante vs. Tibe, et al., 158 SCRA 138; Korean Airlines, Co., Ltd. vs. Court of Appeals, 154 SCRA 213; Pan American World Airways, Inc. vs. Intermediate Appellate Court, 153 SCRA 521; Hernandez vs. Court of Appeals, et al., 149 SCRA 97; Collector of Customs of Manila vs. Intermediate Appellate Court, 137 SCRA 3). While it is true that there are certain exceptions, we find none in this case to warrant a review of the said findings (Rules of Court, Rule 45, Section 4).

In the case at bench, we affirm the respondent court's reduced amount of moral damages. This award should be reasonably sufficient to indemnify the de la Sernas for the delay, inconvenience, humiliation and embarrassment they suffered and to serve as an example to discourage the repetition of similar acts in the future. "The purpose of moral damages is essentially indemnity or reparation, not punishment or correction. Moral damages are emphatically not intended to enrich a complainant at the expense of a defendant; they are awarded only to enable the injured party to obtain means, diversions or amusements that will serve to alleviate the moral suffering he has undergone by reason of the defendant's culpable action." (J. Cesar S. Sangco, Philippine Law Torts and Damages, 1984 Revised Edition, p. 839) (See also Zenith Insurance Corporation vs. Court of Appeals, 185 SCRA 398; Simex International (Manila) Inc. vs. Court of Appeals, 183 SCRA 360; R & B Surety Insurance Co., Inc. vs. Intermediate Appellate Court, 129 SCRA 736; Grand Union Supermarket, Inc. vs. Espino, Jr., 94 SCRA 966). Hence, the award of moral damages is aimed at restoration, within the limits of possible spiritual status quo ante, and the same must be proportionate to the injury or suffering inflicted (Grand Union Supermarket, Inc. vs. Espino, Jr., supra).

ACCORDINGLY, the petition is hereby DENIED for lack of merit, and the assailed decision of the Court of Appeals is hereby AFFIRMED.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Quiason, JJ., concur.

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