

SINGAPORE AIRLINES LIMITED, PETITIONER, VS. ANDION FERNANDEZ, RESPONDENT.

G.R. No. 142305. December 10, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari assailing the Decision[1] of the Court of Appeals which affirmed in toto the decision[2] of the Regional Trial Court of Pasig City, Branch 164 in Civil Case No. 60985 filed by the respondent for damages.

The Case for the Respondent

Respondent Andion Fernandez is an acclaimed soprano here in the Philippines and abroad. At the time of the incident, she was availing an educational grant from the Federal Republic of Germany, pursuing a Master's Degree in Music majoring in Voice.[3]

She was invited to sing before the King and Queen of Malaysia on February 3 and 4, 1991. For this singing engagement, an airline passage ticket was purchased from petitioner Singapore Airlines which would transport her to Manila from Frankfurt, Germany on January 28, 1991. From Manila, she would proceed to Malaysia on the next day.[4] It was necessary for the respondent to pass by Manila in order to gather her wardrobe; and to rehearse and coordinate with her pianist her repertoire for the aforesaid performance.

The petitioner issued the respondent a Singapore Airlines ticket for Flight No. SQ 27, leaving Frankfurt, Germany on January 27, 1991 bound for Singapore with onward connections from Singapore to Manila. Flight No. SQ 27 was scheduled to leave Frankfurt at 1:45 in the afternoon of January 27, 1991, arriving at Singapore at 8:50 in the morning of January 28, 1991. The connecting flight from Singapore to Manila, Flight No. SQ 72, was leaving Singapore at 11:00 in the morning of January 28, 1991, arriving in Manila at 2:20 in the afternoon of the same day.[5]

On January 27, 1991, Flight No. SQ 27 left Frankfurt but arrived in Singapore two hours late or at about 11:00 in the morning of January 28, 1991. By then, the aircraft bound for Manila had left as scheduled, leaving the respondent and about 25 other passengers stranded in the Changi Airport in Singapore. [6]

Upon disembarkation at Singapore, the respondent approached the transit counter who referred her to the nightstop counter and told the lady employee thereat that it was important for her to reach Manila on that day, January 28, 1991. The lady employee told her that there were no more flights to Manila for that day and that respondent had no choice but to stay in Singapore. Upon respondent's persistence, she was told that she can actually fly to Hong Kong going to Manila but since her ticket was non-transferable, she would have to pay for the ticket. The respondent could not accept the offer because she had no money to pay for it.[7] Her pleas for the respondent to make arrangements to transport her to Manila were unheeded.[8]

The respondent then requested the lady employee to use their phone to make a call to Manila. Over the

employees' reluctance, the respondent telephoned her mother to inform the latter that she missed the connecting flight. The respondent was able to contact a family friend who picked her up from the airport for her overnight stay in Singapore.[9]

The next day, after being brought back to the airport, the respondent proceeded to petitioner's counter which says: "Immediate Attention To Passengers with Immediate Booking." There were four or five passengers in line. The respondent approached petitioner's male employee at the counter to make arrangements for immediate booking only to be told: "Can't you see I am doing something." She explained her predicament but the male employee uncaringly retorted: "It's your problem, not ours." [10]

The respondent never made it to Manila and was forced to take a direct flight from Singapore to Malaysia on January 29, 1991, through the efforts of her mother and travel agency in Manila. Her mother also had to travel to Malaysia bringing with her respondent's wardrobe and personal things needed for the performance that caused them to incur an expense of about P50,000.[11]

As a result of this incident, the respondent's performance before the Royal Family of Malaysia was below par. Because of the rude and unkind treatment she received from the petitioner's personnel in Singapore, the respondent was engulfed with fear, anxiety, humiliation and embarrassment causing her to suffer mental fatigue and skin rashes. She was thereby compelled to seek immediate medical attention upon her return to Manila for "acute urticaria." [12]

On June 15, 1993, the RTC rendered a decision with the following dispositive portion:

ACCORDINGLY and as prayed for, defendant Singapore Airlines is ordered to pay herein plaintiff Andion H. Fernandez the sum of:

- FIFTY THOUSAND (P50,000.00) PESOS as compensatory or actual damages;
- TWO HUNDRED and FIFTY THOUSAND (P250,000.00) PESOS as moral damages considering plaintiff's professional standing in the field of culture at home and abroad;
- ONE HUNDRED THOUSAND (P100,000.00) PESOS as exemplary damages;
- SEVENTY-FIVE THOUSAND (P75,000.00) PESOS as attorney's fees; and
- To pay the costs of suit.

SO ORDERED.[13]

The petitioner appealed the decision to the Court of Appeals.

On June 10, 1998, the CA promulgated the assailed decision finding no reversible error in the appealed decision of the trial court.[14]

Forthwith, the petitioner filed the instant petition for review, raising the following errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING IN TOTO THE DECISION OF THE TRIAL COURT THAT AWARDED DAMAGES TO RESPONDENT FOR THE ALLEGED FAILURE OF THE PETITIONER TO EXERCISE EXTRAORDINARY DILIGENCE.

II

THE HONORABLE COURT OF APPEALS ERRED IN HOLDING THAT THE PETITIONER ACTED IN

BAD FAITH.

III

THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE PETITIONER'S COUNTERCLAIMS.[15]

The petitioner assails the award of damages contending that it exercised the extraordinary diligence required by law under the given circumstances. The delay of Flight No. SQ 27 from Frankfurt to Singapore on January 28, 1991 for more than two hours was due to a fortuitous event and beyond petitioner's control. Inclement weather prevented the petitioner's plane coming from Copenhagen, Denmark to arrive in Frankfurt on time on January 27, 1991. The plane could not take off from the airport as the place was shrouded with fog. This delay caused a "snowball effect" whereby the other flights were consequently delayed. The plane carrying the respondent arrived in Singapore two (2) hours behind schedule.[16] The delay was even compounded when the plane could not travel the normal route which was through the Middle East due to the raging Gulf War at that time. It had to pass through the restricted Russian airspace which was more congested.[17]

Under these circumstances, petitioner therefore alleged that it cannot be faulted for the delay in arriving in Singapore on January 28, 1991 and causing the respondent to miss her connecting flight to Manila.

The petitioner further contends that it could not also be held in bad faith because its personnel did their best to look after the needs and interests of the passengers including the respondent. Because the respondent and the other 25 passengers missed their connecting flight to Manila, the petitioner automatically booked them to the flight the next day and gave them free hotel accommodations for the night. It was respondent who did not take petitioner's offer and opted to stay with a family friend in Singapore.

The petitioner also alleges that the action of the respondent was baseless and it tarnished its good name and image earned through the years for which, it was entitled to damages in the amount of P1,000,000; exemplary damages of P500,000; and attorney's fees also in the amount of P500,000.[18]

The petition is barren of merit.

When an airline issues a ticket to a passenger, confirmed for a particular flight on a certain date, a contract of carriage arises. The passenger then has every right to expect that he be transported on that flight and on that date. If he does not, then the carrier opens itself to a suit for a breach of contract of carriage.[19]

The contract of air carriage is a peculiar one. Imbued with public interest, the law requires common carriers to carry the passengers safely as far as human care and foresight can provide, using the utmost diligence of very cautious persons with due regard for all the circumstances.[20] In an action for breach of contract of carriage, the aggrieved party does not have to prove that the common carrier was at fault or was negligent. All that is necessary to prove is the existence of the contract and the fact of its non-performance by the carrier.[21]

In the case at bar, it is undisputed that the respondent carried a confirmed ticket for the two-legged trip from Frankfurt to Manila: 1) Frankfurt-Singapore; and 2) Singapore-Manila. In her contract of carriage with the petitioner, the respondent certainly expected that she would fly to Manila on Flight No. SQ 72 on January 28, 1991. Since the petitioner did not transport the respondent as covenanted by it on said terms, the petitioner clearly breached its contract of carriage with the respondent. The respondent had every right to sue the petitioner for this breach. The defense that the delay was due to fortuitous events and beyond petitioner's control is unavailing. In *PAL vs. CA*,[22] we held that:

.... Undisputably, PAL's diversion of its flight due to inclement weather was a fortuitous event. Nonetheless,

such occurrence did not terminate PAL's contract with its passengers. Being in the business of air carriage and the sole one to operate in the country, PAL is deemed to be equipped to deal with situations as in the case at bar. What we said in one case once again must be stressed, i.e., the relation of carrier and passenger continues until the latter has been landed at the port of destination and has left the carrier's premises. Hence, PAL necessarily would still have to exercise extraordinary diligence in safeguarding the comfort, convenience and safety of its stranded passengers until they have reached their final destination...

...

"...If the cause of non-fulfillment of the contract is due to a fortuitous event, it has to be the sole and only cause (Art. 1755 C.C., Art. 1733 C.C.). Since part of the failure to comply with the obligation of common carrier to deliver its passengers safely to their destination lay in the defendant's failure to provide comfort and convenience to its stranded passengers using extraordinary diligence, the cause of non- fulfillment is not solely and exclusively due to fortuitous event, but due to something which defendant airline could have prevented, defendant becomes liable to plaintiff."

Indeed, in the instant case, petitioner was not without recourse to enable it to fulfill its obligation to transport the respondent safely as scheduled as far as human care and foresight can provide to her destination. Tagged as a premiere airline as it claims to be and with the complexities of air travel, it was certainly well-equipped to be able to foresee and deal with such situation. The petitioner's indifference and negligence by its absence and insensitivity was exposed by the trial court, thus:

(a)

Under Section 9.1 of its Traffic Manual (Exhibit 4) "...flights can be delayed to await the uplift of connecting cargo and passengers arriving on a late in-bound flight..." As adverted to by the trial court,..."Flight SQ-27/28 maybe delayed for about half an hour to transfer plaintiff to her connecting flight. As pointed out above, delay is normal in commercial air transportation" (RTC Decision, p. 22); or

(b)

Petitioner airlines could have carried her on one of its flights bound for Hongkong and arranged for a connecting flight from Hongkong to Manila all on the same date. But then the airline personnel who informed her of such possibility told her that she has to pay for that flight. Regrettably, respondent did not have sufficient funds to pay for it. (TSN, 30 March 1992, pp.8-9; RTC Decision, pp. 22-23) Knowing the predicament of the respondent, petitioner did not offer to shoulder the cost of the ticket for that flight; or

(c)

As noted by the trial court from the account of petitioner's witness, Bob Khkimyong, that "a passenger such as the plaintiff could have been accommodated in another international airline such as Lufthansa to bring the plaintiff to Singapore early enough from Frankfurt provided that there was prior communication from that station to enable her to catch the connecting flight to Manila because of the urgency of her business in Manila...(RTC Decision, p. 23)

The petitioner's diligence in communicating to its passengers the consequences of the delay in their flights was wanting. As elucidated by the trial court:

It maybe that delay in the take off and arrival of commercial aircraft could not be avoided and may be caused by diverse factors such as those testified to by defendant's pilot. However, knowing fully well that even before

the plaintiff boarded defendant's Jumbo aircraft in Frankfurt bound for Singapore, it has already incurred a delay of two hours. Nevertheless, defendant did not take the trouble of informing plaintiff, among its other passengers of such a delay and that in such a case, the usual practice of defendant airline will be that they have to stay overnight at their connecting airport; and much less did it inquire from the plaintiff and the other 25 passengers bound for Manila whether they are amenable to stay overnight in Singapore and to take the connecting flight to Manila the next day. Such information should have been given and inquiries made in Frankfurt because even the defendant airline's manual provides that in case of urgency to reach his or her destination on the same date, the head office of defendant in Singapore must be informed by telephone or telefax so as the latter may make certain arrangements with other airlines in Frankfurt to bring such a passenger with urgent business to Singapore in such a manner that the latter can catch up with her connecting flight such as S-27/28 without spending the night in Singapore...[23]

The respondent was not remiss in conveying her apprehension about the delay of the flight when she was still in Frankfurt. Upon the assurance of petitioner's personnel in Frankfurt that she will be transported to Manila on the same date, she had every right to expect that obligation fulfilled. She testified, to wit:

Q:

Now, since you were late, when the plane that arrived from Frankfurt was late, did you not make arrangements so that your flight from Singapore to Manila would be adjusted?

A:

I asked the lady at the ticket counter, the one who gave the boarding pass in Frankfurt and I asked her, "Since my flight going to Singapore would be late, what would happen to my Singapore-Manila flight?" and then she said, "Don't worry, Singapore Airlines would be responsible to bring you to Manila on the same date." And then they have informed the name of the officer, or whatever, that our flight is going to be late.[24]

When a passenger contracts for a specific flight, he has a purpose in making that choice which must be respected. This choice, once exercised, must not be impaired by a breach on the part of the airline without the latter incurring any liability.[25] For petitioner's failure to bring the respondent to her destination, as scheduled, we find the petitioner clearly liable for the breach of its contract of carriage with the respondent.

We are convinced that the petitioner acted in bad faith. Bad faith means a breach of known duty through some motive of interest or ill will. Self-enrichment or fraternal interest, and not personal ill will, may well have been the motive; but it is malice nevertheless.[26] Bad faith was imputed by the trial court when it found that the petitioner's employees at the Singapore airport did not accord the respondent the attention and treatment allegedly warranted under the circumstances. The lady employee at the counter was unkind and of no help to her. The respondent further alleged that without her threats of suing the company, she was not allowed to use the company's phone to make long distance calls to her mother in Manila. The male employee at the counter where it says: "Immediate Attention to Passengers with Immediate Booking" was rude to her when he curtly retorted that he was busy attending to other passengers in line. The trial court concluded that this inattentiveness and rudeness of petitioner's personnel to respondent's plight was gross enough amounting to bad faith. This is a finding that is generally binding upon the Court which we find no reason to disturb.

Article 2232 of the Civil Code provides that in a contractual or quasi-contractual relationship, exemplary damages may be awarded only if the defendant had acted in a "wanton, fraudulent, reckless, oppressive or malevolent manner." In this case, petitioner's employees acted in a wanton, oppressive or malevolent manner. The award of exemplary damages is, therefore, warranted in this case.

WHEREFORE, the Petition is DENIED. The Decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Associate Justice Corona Ibay-Somera with Associate Justices Oswaldo D. Agcaoili and Renato C. Dacudao, concurring.

[2] Penned by Judge Apolonio R. Chavez, Jr.

[3] TSN, 30 March 1992, p. 22.

[4] Id. at 11-12.

[5] Records, p. 2.

[6] TSN, 11 June 1992, p. 17.

[7] TSN, 30 March 1992, p. 8.

[8] Records, p. 3.

[9] TSN, 30 March 1992, pp. 9-10.

[10] Id. at 14.

[11] Id. at 23.

[12] TSN, 30 March 1992, p. 21; Exhibit "E"; Records, p. 80.

[13] Records, p. 202.

[14] Rollo, p. 36.

[15] Rollo, pp. 15-16.

[16] TSN, 28 May 1992, p. 8.

[17] Id. at 15-16.

[18] Records, pp. 45-47.

[19] *Alitalia Airways vs. CA*, 187 SCRA 763 (1990).

[20] *PAL vs. CA*, 226 SCRA 423 (1993).

[21] *China Airlines, Ltd. vs. Court of Appeals, et al.*, G.R. No. 129988, July 14, 2003.

[22] *Supra* at note 28.

[23] Records, pp. 198-199.

[24] TSN, 30 March 1992, pp. 6-7.

[25] *Alitalia Airways vs. CA*, *supra*.

[26] *Lopez vs. Pan American World Airways*, 16 SCRA 431 (1966).

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