

RODOLFO D. GARCIA, PETITIONER, VS. PHILIPPINE AIRLINES AND/OR CRISTINA W. TRINIDAD, MANAGER, CATERING OPERATIONS, RESPONDENTS.

G.R. No. 162868. July 14, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

WHO is the employer of petitioner - respondent Philippine Airlines or the latter's contractor, Stellar Industrial Services, Inc.?

The question has been adjudged previously and is now barred from being relitigated under the doctrine of res judicata, a rule which pervades every well-regulated system of jurisprudence. It is founded upon two (2) grounds, namely: (1) public policy and necessity which makes it to the interest of the State that there should be an end to litigation, interest reipublicae ut sit finis litumi (sa kapakanan ng Estado ay kailangang magkaroon ng wakas ang kaso); and (2) the hardship on the individual that he should be vexed twice for the same cause, memo debet bis vexari et eadem causa (sinuman ay di dapat bagabagin ng makalawa sa iisang dahilan).[1]

The doctrine finds application in this petition for review on certiorari of the Decision[2] and Resolution[3] of the Court of Appeals (CA), absolving private respondent Philippine Airlines (PAL) of any liability for petitioner Rodolfo D. Garcia's dismissal.

The Facts

Stellar Industrial Services, Inc. (Stellar) had a standing agreement to supply PAL with workers for janitorial and sanitation functions. On August 2, 1976, petitioner was assigned by Stellar to PAL, where he was tasked to perform janitorial services at the company's in-flight kitchen until January 24, 1990.

During the course of his employment, petitioner received a warning from Stellar for absences incurred. The Memorandum, dated April 28, 1987, pertinently reads:

TO

:

GARCIA, Rodolfo

NUEDA, Ferdinand

FROM

:

Vice President Comptroller

SUBJECT

:

LAST WARNING

DATED

:

28 April 1987

Our attention was called by our client Philippine Airlines - Inflight Kitchen regarding your failure to report for work last April 17, 1987.

Your absences has (sic) caused inconvenience in the operation of our client. Let this serve as our last warning, any repetition or violation of any company rules and regulations will constrain us to terminate your services with us.

(SGD.) CARLOS P. CALLANGA[4]

On January 25, 1990, petitioner was transferred to PAL's Catering Operations as a kitchen busboy in the sanitizing section.

In a Memorandum dated March 21, 1990, PAL, through Cristina W. Trinidad, then Manager of PAL's Catering Operations, requested Stellar for a replacement for petitioner.

TO

:

Mr. Oscar Lluz

Operations Manager Stellar Industrial Services

FROM

:

Manager-Catering Operations

SUBJECT

:

MR. RODOLFO GARCIA

We would like to request for the immediate replacement of Mr. Rodolfo Garcia.

He has failed to meet the performance requirement of a helper at Catering Operations.

Hereunder are the observations of his superiors from January 8 to the present.

01. Always late in completing assigned tasks.

02. Must be consistently prodded to meet deadlines.

03.

Unable to identify and carry out work priorities and needs assistance from co-workers.

Worst of all, he was caught selling cigarettes while on duty.

We hope you will act on our request immediately.

(SGD.) CRISTINA W. TRINIDAD[5]

Consequently, in a letter dated March 28, 1990, Carlos P. Callanga, VP-Operations/Comptroller of Stellar, demanded from petitioner a written explanation why no disciplinary action should be taken against him, in view of the following charges: (1) poor performance/negligence of duty; and (2) selling of cigarettes while on duty.[6]

Petitioner, in a letter-reply dated April 2, 1990, rendered an explanation in the following tenor:

April 2, 1990

Mr. Cesar Lluz
Operation Manager
Stellar Industrial Services
Cibeles Bldg., Ayala
Makati, Metro Manila

Dear Sir:

These are my answers to the charges against me as inscribed in a letter of MS. Cristina W. Trinidad dated March 21, 1990.

As to the allegation that I was always late in completing assigned task, this was not true because works in the Catering Service has (sic) no ending due to the nature of PAL's business.

As to the allegation that I must constantly (be) prodded to meet deadlines, (this) was not correct because of the above reasons.

As to the allegation that I was not able to identify and carry out work priorities and needs assistance from co-workers was not also (sic) correct because I always have a companion in the performance of my job because the nature of the work calls for it.

And as to the last allegation that I was caught selling cigarettes while on duty was not also tru (sic) because how can I sell cigarettes when I was surrounded by heavy works and the mess in my hands while on duty will make them spoiled. The cigarettes inside my pocket was (sic) only for my personal consumptions (sic).

I hope these answers will enlighten my case and I am looking forward that I will be given merit considering that I am connected with the service for a period of fourteen (14) years without being apprehended/complained of misconduct unbecoming.

Yours truly,

(Sgd.)
RODOLFO GARCIA[7]

Dissatisfied with petitioner's explanation, Stellar subsequently terminated his employment.

In 1992, petitioner filed a complaint for illegal dismissal against Stellar and Lluz, as well as PAL and Trinidad. The case, docketed as NLRC Case No. 00-11-06556-92, was assigned to Labor Arbiter Emerson C. Tumanon.

It appears that sometime in 1988, Stellar employees assigned at PAL filed complaints for regularization against the air carrier. One of the complainants against PAL was petitioner. These complaints, docketed as National Labor Relations Commission (NLRC) NCR Case Nos. 00-11-04628-88, 00-12-05004-88, 00-01-00465-88, and 00-02-00828-89, were consolidated and assigned to Labor Arbiter Jose De Vera of the NLRC.[8]

On March 31, 1992, Labor Arbiter De Vera rendered judgment[9] in favor of complainants, declaring the existence of an employer-employee relationship between the Stellar employees and PAL. On appeal, the NLRC affirmed in toto the findings of the Labor Arbiter.

PAL moved for reconsideration of the April 27, 1995 NLRC Decision. Acting on PAL's motion, the NLRC, on September 25, 1996, reversed and set aside its own earlier findings, and declared complainants employees of Stellar, not of PAL.[10]

On February 6, 1998, the aggrieved complainants lodged an appeal with this Court. However, via its Resolutions dated March 2, 1998[11] and April 22, 1998,[12] this Court denied the same.

NLRC Ruling

On November 29, 1995, Labor Arbiter Tumanon rendered a decision[13] in the illegal dismissal case in favor of petitioner, stating thus:

WHEREFORE, premises considered, judgment is hereby rendered declaring the dismissal of complainant herein to be illegal and unauthorized; consequently, ordering herein respondents jointly and severally without loss of seniority rights and privileges and with full backwages counted from the date of his dismissal until actual reinstatement which up to the date of the promulgation of this Decision has already amounted to TWO HUNDRED FORTY THOUSAND FOUR HUNDRED SEVENTY-FIVE and 21/100 (P240,475.21) pesos, broken down as follows:

Backwages in the sum of P218,810.02;

13th Month pay in the sum of P18,234.16;

Service Incentive Leave pay in the sum of P3,431.03;

subject to adjustment if payroll or physical reinstatement is denied.

It appearing that complainant has been represented by counsel in the litigation of this case, said counsel is hereby awarded the sum of ten (10%) percent of the total award as and for attorney's fees in the amount of TWENTY-FOUR THOUSAND FORTY-SEVEN and 52/100 (P24,047.52) pesos, subject also for adjustment.

SO ORDERED.[14]

However, on appeal, the Third Division of the NLRC reversed Labor Arbiter Tumanon, holding that petitioner was "guilty of gross and habitual neglect and was consequently terminated for cause and with due process." [15] The NLRC declared that:

x x x respondent Stellar appears to be an independent job contractor and not merely a labor only contractor. Apart from the fact that it has sufficient capitalization to the tune of more than a million pesos, its workers perform work that are not necessary and desirable to the business of PAL. Simply stated, it is a job contractor for PAL's messengerial and janitorial needs no more no less. Hence, its employees are not of PAL.

ACCORDINGLY, premises considered, the decision appealed from is hereby SET ASIDE and this case DISMISSED for lack of merits (sic).

SO ORDERED.[16]

Petitioner's motion for reconsideration was denied by the NLRC in its October 8, 2004 Resolution.[17]

CA Disposition

On certiorari, the CA "modified" both the NLRC and the Labor Arbiter rulings, thus:

WHEREFORE, premises considered, the Petition is GRANTED and the assailed 27 August 2001 Resolution of respondent Commission in NLRC NCR CA No. 010218-96 and the 29 November 1995 Decision of Labor Arbiter Emerson C. Tumanon in NLRC NCR No. 00-11-06556-92 are hereby MODIFIED insofar as the pecuniary awards declared in the Labor Arbiter's Decision are the sole responsibility of private respondent Stellar, petitioner's direct employer.

SO ORDERED.[18]

In reality, however, the CA merely sustained the NLRC ruling that Stellar is an independent contractor. The CA observed:

However, it is only private respondent Stellar who is responsible to petitioner as the former is an independent contractor. The issue whether or not Stellar is an independent contractor or merely engaged in labor-only contracting was already addressed and settled by the Highest Magistrate in a related case entitled *Phil. Airlines vs. NLRC*, 298 SCRA 430 [2000], to wit:

"Aside from these stipulations in the service agreement, other pieces of evidence support the conclusion that STELLAR, not PAL, was the employer of the individual private respondents. A contract of employment existed between STELLAR and the individual private respondents, proving that it was said corporation which hired them. It was also STELLAR which dismissed them, as evidenced by Complainant Parnas' termination letter, which was signed by Carlos P. Callanga, vice president for operations and comptroller of STELLAR. Likewise, they worked under STELLAR's own supervisors, Rodel Pagsulungan, Napoleon Parungao, and Renato Topacio. STELLAR even had its own collective bargaining agreement with its employees, including the individual private respondents. Moreover, PAL had no power of control and dismissal power them (sic)."[19]

Petitioner moved for partial reconsideration asking that PAL be made solidarily liable with Stellar. However, the CA denied his motion in its Resolution dated March 17, 2004. Hence, this petition.

Issues

Petitioner submits the following assignment:

I.

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ABSOLVING PAL FROM LIABILITY CONSIDERING THAT IT IS THE EMPLOYER OF PETITIONER BECAUSE THE LATTER PERFORMED FUNCTIONS, DUTIES AND RESPONSIBILITIES NECESSARY AND DESIRABLE TO ITS BUSINESS OPERATIONS.

II.

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ABSOLVING PAL FROM LIABILITY CONSIDERING THAT IT IS THE EMPLOYER OF PETITIONER BECAUSE IT IS PAL WHICH EXERCISED CONTROL OVER THE MEANS AND METHODS (BY WHICH) PETITIONER PERFORMED HIS JOB AT ITS CATERING DEPARTMENT.

III.

THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ABSOLVING PAL FROM LIABILITY CONSIDERING THAT IT IS THE EMPLOYER OF PETITIONER BECAUSE IT IS PAL WHICH ADOPTED RULES, REGULATIONS AND POLICIES REGARDING DISCIPLINE TO BE FOLLOWED BY ITS EMPLOYEES AT ITS CATERING DEPARTMENT.[20] (Underscoring supplied)

Simply stated, the essential issue is whether PAL is petitioner's employer and solidarily liable with Stellar for illegal dismissal.

Our Ruling

Preliminarily, We note that the instant petition was filed beyond the requested extension period. Petitioner received a copy of the CA March 17, 2004 Resolution on March 26, 2004. He had until April 10, 2004 to file this petition. He asked the Court that he be allowed until April 25, 2004 to file the same,[21] but failed to comply when he filed the petition only on April 26, 2004. Nevertheless, inasmuch as the delay is not substantial, the greater interest of justice would be served if this petition is adjudicated on its merits. Sound policy dictates that it is far better to dispose of cases on the merits, rather than on a technicality as the latter approach may result in injustice.[22]

On its merits, however, We resolve to deny the petition.

The CA correctly found that PAL is not petitioner's employer and cannot thus be held solidarily liable with Stellar for illegal dismissal.

The issue on the existence of an employer-employee relationship between petitioner and PAL has long been resolved in the case entitled *Stellar Employees Association v. Philippine Airlines and Stellar Industrial Services, Inc.*[23] In that case, petitioner joined other Stellar employees in filing complaints for regularization, money claims and damages against PAL before the NLRC. The NLRC declared, on September 25, 1996, that no employer-employee relationship exists between PAL and the Stellar employees, finding that:

We have re-examined the record of this case and have found that SISI assigned supervisors and timekeepers at PAL's premises where SEA's members performed their work. On the issue of SISI's capitalization, it cannot be denied that, per its Amended Articles of Incorporation, it has an authorized capital stock of P1,000,000.00. SISI has a collective bargaining agreement (CBA) with its employees, including SEA's members, under which complainants obtained substantial benefits.

x x x x

We must remember that this case is principally for regularization and relies primarily on the premise that SISI is a "labor-only" contractor of PAL. With respect to the issue of whether or not SISI is a legitimate independent contractor, SEA admits that SISI provides its employees with "soap, cleansers, mops, lawn mowers, brooms, dust pans," etc. More telling is SEA's admission that SISI has several clients other than PAL. SEA tries to avoid the application of *Neri, et al. vs. NLR, et al.*, 224 SCRA 717 (July 23, 1993), by distinguishing SISI's janitorial operations from the other types of employees, like the station loaders.

This argument, however, falls flat on its face considering that SISI has substantial authorized capital in the amount of P1.0 Million, since this not limited to its janitorial department. This is evidenced by SISI's Amended Articles of Incorporation which is a public document under the possession, supervision and control of the Securities and Exchange Commission and We can even take judicial notice of this fact, despite SEA's declaration to the contrary.

We are aware of the standards used to determine a "labor-only" contractor. As SEA itself has pointed out, one such gauge is the absence of substantial capital, citing Art. 106 of the Labor Code and Sec. 9, Rule VIII of its Implementing Rules. In view of SISI's possession of substantial capital, it cannot be considered a "labor-only" contractor.

On the other hand, is SISI an independent contractor? We resolve this is in the affirmative after re-thinking our earlier Resolution. Aside from its capital, it also maintains an independent business as admittedly shown by its diversified clientele and the supervision and control as to the means of work as provided by its own

timekeepers, foremen, etc.

We cannot subscribe to the position by SEA that the absence of premises, tools, equipment, etc. is anachronistic to SISI's being an independent contractor. There is nothing novel about this since this has been succinctly ruled upon by the Supreme Court in its Neri decision, *supra*. There, the High Court refined the definition of an independent contractor in the sense that it need not possess both tools and equipment, on one hand, and substantial capitalization, on the other hand. Otherwise, as observed by the Court, the legislator ought to have used the conjunctive "and," instead of "or."

Neither is the contention concerning the direct relation of complainants' services to PAL's operations relevant to the ultimate determination of this case. In Neri, the Supreme Court cited the "general practice," even of government institutions, of contracting out certain services, and, with the finding that BCC, the contractor there, was an independent one, also said -

x x x There is even no need for it to refute petitioner's contention that the activities are directly related to the principal business of respondent bank.

x x x x

Viewed from a different standpoint, the workers have no contractual tie to PAL because SISI, as a legitimate independent contractor, is their true employer. They applied and executed employment contracts with SISI, not PAL, although SEA argues that its members were made to sign the application forms and employment contracts. What cannot be denied, however, is the brazen and undisputed fact that SISI has a CBA with its employees, including SEA's members. SISI's employees derived benefits under said CBA for the number of years it had been in force. The CBA is a clear admission of an employment relationship with SISI. It is now too late in the day for them to deny such relationship.

x x x x

Because of the absence of a juridical tie with them, PAL's instructions cannot be considered control under the four-fold test of employment relationship. Going back to the Neri case, "x x x in legal contemplation, such instructions carry no more weight than mere requests x x x."

x x x x

All told, We hereby rule that SISI is a legitimate independent contractor and is the true employer of the individual complainants, not PAL.[24] (Underscoring supplied)

Due to the failure to seasonably appeal or question the NLRC ruling,[25] its factual and legal findings have attained finality. Consequently, the holding that PAL is not petitioner's employer constitutes *res judicata* on the same issue in this petition.

Res judicata literally means "a matter adjudged; a thing judicially acted upon or decided; a thing or matter settled by judgment." [26] *Res judicata* is, in fine, a rule of preclusion to the end that facts or issues settled by final judgment should not be tried anew. [27]

The principle of *res judicata* in actions in personam is found in Section 49(b) and (c), Rule 39 of the Rules of Court which provides:

Sec. 49. Effects of judgments. - The effect of a judgment or final order rendered by a court or judge of the Philippines, having jurisdiction to pronounce the judgment or order, may be as follows:

x x x x

(b) In other cases, the judgment or order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors-in-interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity;

(c) In any other litigation between the same parties or their successors-in-interest, that only is deemed to have been adjudged in a former judgment which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

Res judicata has two (2) concepts. The first is "bar by prior judgment" under Rule 39, Section 47(b). This rule dictates that the judgment or decree of a court of competent jurisdiction on the merits concludes the parties and their privies to the litigation and constitutes a bar to a new action or suit involving the same cause of action either before the same or any other tribunal.[28] Stated otherwise, the judgment rendered in the first case is an absolute bar to the subsequent action since said judgment is conclusive not only as to the matters offered and received to sustain that judgment but also as to any other matter which might have been offered for that purpose and which could have been adjudged therein.[29]

The second rule of res judicata is embodied in Rule 39, Section 47(c), and is known as "conclusiveness of judgment." It provides that any right, fact, or matter in issue directly adjudicated or necessarily involved in the determination of an action before a competent court in which a judgment or decree is rendered on the merits is conclusively settled by the judgment therein and cannot again be litigated between the parties and their privies whether or not the claim or demand, purpose, or subject matter of the two suits is the same. It refers to a situation where the judgment in the prior action operates as an estoppel only as to the matters actually determined or which were necessarily included therein.[30]

The other elements being virtually the same, the fundamental difference between the rule of res judicata as a bar by former judgment and as merely a rule on the conclusiveness of judgment is that, in the first, there is an identity in the cause of action in both cases involved whereas, in the second, the cause of action in the first case is different from that in the second case.[31]

In this petition, res judicata in the concept of conclusiveness of judgment obtains. The concept is applicable here as there is identity of parties and subject matter but not of causes of action.

First, there is identity of parties between the two (2) cases. Petitioner was one of complainants in the consolidated regularization cases and he is also the same party who initiated this action. His denial of participation in the regularization cases[32] is negated by the records, as he was awarded wage differentials and CBA benefits by the Labor Arbiter in said cases.[33] In fact, records show that petitioner was awarded the amount of P34,886.00.[34]

Second, there is identity of subject matter, defined as the matter or thing with respect to which the controversy has arisen, concerning which a wrong has been done.[35] It is quite clear that the issue and subject matter resolved in the consolidated regularization cases is the existence of an employer-employee relationship between petitioner and PAL. It is also the primordial issue for resolution in the instant petition.

However, identity of causes of action is absent between the two (2) cases. Under the rules, a cause of action is defined as an act or omission by which a party violates a right of another.[36] In the regularization cases, the cause of action is the deprivation of the status of a regular employee, while in this petition, the cause of action is the dismissal of an employee without just cause under our labor laws.

Applying the rule on conclusiveness of judgment to this case, the parties are now precluded from relitigating the same issue of the existence of an employment relationship between PAL and petitioner.

Although it does not have the same effect as bar by prior judgment which precludes subsequent actions, conclusiveness of judgment operates as estoppel with respect to matters in issue or points controverted, on the determination of which the finding or judgment was anchored.[37]

Where material facts or questions, which were in issue in a former action, were judicially determined, such facts are *res judicata*.^[38] In *Stilianopulos v. City of Legaspi*,^[39] the Court held that "(w)hen a right or fact has been judicially tried and determined by a court of competent jurisdiction or an opportunity for such trial has been given, the judgment of the court, as long as it remains unreversed, should be conclusive upon the parties and those in privity with them. Clearly, there should be an end to litigation by the same parties and their privies over a subject, once it is fully and fairly adjudicated."

Res judicata requires that stability be accorded to judgments. Controversies once decided on the merits shall remain in repose for there should be an end to litigation which, without the doctrine, would be endless.^[40] As We declared in *Camara v. Court of Appeals*,^[41] both concepts of *res judicata* are:

x x x founded on the principle of estoppel, and are based on the salutary policy against unnecessary multiplicity of suits. Like the splitting of causes of action, *res judicata* is in pursuance of such policy. Matters settled by a Court's final judgment should not be litigated upon or invoked again. Relitigation of issues already settled merely burdens the Courts and the taxpayers, creates uneasiness and confusion, and wastes valuable time and energy that could be devoted to worthier causes. As the Roman maxim goes, *Non bis in idem*.^[42]

The regularization cases initiated and participated in by petitioner are now final and executory, and the issues resolved in that case should no longer be disturbed. Nothing is more settled in law than that when a judgment becomes final and executory it becomes immutable and unalterable. The same may no longer be modified in any respect, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and whether made by the highest court of the land. The reason is grounded on the fundamental considerations of public policy and sound practice that, at the risk of occasional error, the judgments or orders of courts must be final at some definite date fixed by law.^[43]

Verily, *res judicata* now bars petitioner from reopening, by way of this petition, the issue of the existence of an employer-employee relationship between him and PAL. Otherwise, there will never be an end to litigation on the issue.

Nevertheless, petitioner insists that We again resolve the issue by looking at "evidentiary facts of employer-employee relationship."^[44] At the same time, he maintains that he raises questions of law.^[45]

Evidently, the issues raised by the petitioner pertain to factual matters. If We were to determine these factual issues, We shall have to examine the documentary and testimonial evidence, as well as the factual allegations in the pleadings. In doing so, We shall have to consider the following elements to determine the existence of an employment relationship: (a) the selection and engagement of the employee; (b) the payment of wages; (c) the power of dismissal; and (d) the employer's power to control the employee with respect to the means and methods by which the work is to be accomplished. Of these elements, the so-called "control test" is the most important.^[46]

Obviously, an evaluation of the above-mentioned factual matters is embraced by the proscription found in Rule 45, Section 1 of the Rules of Court, which states that an appeal by *certiorari* to the Supreme Court "shall raise only questions of law which must be distinctly set forth."

Petitioner asks Us to exempt him from the proscription considering the contrasting findings of the Labor Arbiter, on one hand, and the NLRC and the CA on the other.

However, well-settled is the rule that conclusions and findings of fact by the lower courts or administrative bodies are entitled to great weight on appeal and will not be disturbed except for strong and cogent reasons. The findings of the CA by itself, which are supported by substantial evidence, are almost beyond the power of review by the Supreme Court.^[47]

We find no cogent reason to disturb the NLRC and the CA findings as these are supported by substantial evidence. On the other hand, We cannot rely on the findings of the Labor Arbiter about the existence of an employer-employee relationship. His decision[48] fails to shed light on what specific findings of fact convinced him that Stellar is a labor-only contractor, and that PAL is an employer of petitioner.

Moreover, even if We relax the rule, We notice an abject failure of the petitioner to attach to the petition and subsequent pleadings, proof of these alleged facts of employment relationship. There is a patent dearth of evidence in the records to convince Us that the following material allegations exist, namely: that petitioner's duties were necessary and desirable to the business of PAL; that PAL exercised control over the means and methods of his performance at the in-flight kitchen; and that it was PAL's responsibility to issue rules and regulations regarding discipline to be followed by petitioner at that department.

Instead, petitioner merely offered factual assertions which are unfortunately not supported by proof, documentary or otherwise. We cannot accept this as substantial evidence that is necessary to make a finding of an employer-employee relationship. It is elementary that he who alleges a fact must prove it, and a mere allegation is not evidence.[49]

On the basis of the pleadings and evidence before Us, We cannot accept the claim that petitioner was PAL's employee. Petitioner does not deny that he was selected and engaged by Stellar when he was assigned to PAL.[50] Moreover, while petitioner claims that the funds for his salary came from PAL, he did not adduce proof to support his allegation. In any event, he admits that it was Stellar that paid his wages.[51] The evidence further shows that it was Stellar, not PAL, that disciplined petitioner. It was Stellar that issued to petitioner various memoranda asking for an explanation about his infractions,[52] and petitioner explained himself to that company, not PAL.[53] In fine, petitioner recognized the disciplinary authority of Stellar over him, and not that of the air carrier.

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.

Ynares-Santiago, (Chairperson), Quisumbing, Austria-Martinez, and Nachura, JJ., concur.

* Vice Associate Justice Minita V. Chico-Nazario. Justice Nazario is on official leave per Special Order No. 508 dated June 25, 2008.

[1] *Malayang Samahan ng Manggagawa sa Balanced Food v. Pinakamasarap Corporation*, G.R. No. 139068, January 16, 2004, 420 SCRA 84, citing *Arenas v. Court of Appeals*, G.R. No. 126640, November 23, 2000, 345 SCRA 617.

[2] *Rollo*, pp. 23-33. Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justices Delilah Vidallon-Magtolis and Regalado E. Maambong, concurring. Dated December 23, 2002.

[3] *Id.* at 22. Dated March 17, 2004.

[4] *Id.* at 49.

[5] *Id.* at 24.

[6] *Id.* at 51.

[7] *Id.* at 52.

- [8] Id. at 119.
- [9] CA rollo, pp. 82-117; Annex "1."
- [10] Id. at 118-127; rollo, pp. 133-142; Annex "1."
- [11] Id. at 143-144; Annex "2."
- [12] Id. at 145; Annex "3."
- [13] Id. at 73-82; Annex "E."
- [14] Id. at 81-82.
- [15] Id. at 88.
- [16] Id. at 88-89.
- [17] Id. at 100; Annex "J."
- [18] Id. at 23-33.
- [19] Id. at 22.
- [20] Id. at 16.
- [21] Id. at 3-6.
- [22] Asia Traders Insurance Corporation v. Court of Appeals, G.R. No. 152537, February 16, 2004, 423 SCRA 114.
- [23] NLRC NCR Case Nos. 00-11-04628-88, 12-5005-88, 00-11-04628-88, and 02-0828-89 were subsequently consolidated.
- [24] Rollo, p. 186; Annex "1."
- [25] Id.
- [26] Williams v. Court of Appeals, G.R. No. 166177, December 18, 2006, 511 SCRA 152.
- [27] Tengco, Jr. v. Marcelo, G.R. No. 159877, June 26, 2007.
- [28] Arcadio v. Carriaga, Jr., G.R. Nos. 75109-10, June 28, 1989, 174 SCRA 330.
- [29] Id.
- [30] Del Rosario v. Far East Bank and Trust Company, G.R. No. 150134, October 31, 2007.
- [31] Arcadio v. Carriaga, Jr., supra note 28.
- [32] Rollo, p. 153.
- [33] Id.
- [34] Id. at 174; Annex "1."
- [35].Taganas v. Emuslan, G.R. No. 146980, September 2, 2003, 410 SCRA 237.
- [36] Rules of Court, Rule 2, Sec. 2.

[37] *Camara v. Court of Appeals*, G.R. No. 100789, July 20, 1999, 310 SCRA 608.

[38] *Republic v. Court of Appeals*, G.R. No. 103412, February 3, 2000, 325 SCRA 560, citing *Carlet v. Court of Appeals*, 341 Phil. 99, 108 (1997).

[39] G.R. No. 133913, October 12, 1999, 316 SCRA 523.

[40] *Nacuray v. National Labor Relations Commission*, G.R. Nos. 114924-27, March 18, 1997, 270 SCRA 9.

[41] *Supra* note 37.

[42] *Camara v. Court of Appeals*, *id.* at 163-164.

[43] *Id.*

[44] *Rollo*, p. 155.

[45] *Id.* at 154.

[46] *Brotherhood Labor Unity Movement of the Philippines v. Zamora*, G.R. No. L-48656, January 7, 1987, 147 SCRA 49.

[47] *Pimentel v. Court of Appeals*, G.R. No. 117422, May 12, 1999, 307 SCRA 38.

[48] *Id.*

[49] *P.T. Cerna Corporation v. Court of Appeals*, G.R. No. 91622, April 6, 1993, 221 SCRA 19, cited in *Pimentel v. Court of Appeals*, *supra* note 47.

[50] *Rollo*, p. 205.

[51] *Id.* at 100.

[52] *Id.*

[53] *Id.*

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