

KOREAN AIR CO., LTD. AND SUK KYOO KIM, PETITIONERS, VS. ADELINA A.S. YUSON, RESPONDENT.

G.R. No. 170369. June 16, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition[1] for review on certiorari under Rule 45 of the Rules of Court. The petition challenges the 28 June 2005 Decision[2] and 3 November 2005 Resolution[3] of the Court of Appeals in CA-G.R. SP No. 86762. The Court of Appeals set aside the 30 July 2004 Resolution[4] of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 034928-03, affirming the 31 January 2003 Decision[5] of Labor Arbiter Ariel Cadiente Santos (Labor Arbiter Santos) in NLRC-NCR S Case No. 30-11-05543-01.

The Facts

In July 1975, Korean Air Co., Ltd. (Korean Air) hired Adelina A.S. Yuson (Yuson) as reservations agent. Korean Air promoted Yuson to assistant manager in 1993, and to passenger sales manager in 1999.

Korean Air had an International Passenger Manual (IPM) which contained, among others, travel benefit to its employees. However, Korean Air never implemented the travel benefit under the manual. Instead, Korean Air granted all its employees travel benefit as contained in the collective bargaining agreement (CBA). Yuson availed of the travel benefit under the CBA during her stay in the company.

In 2000, Korean Air suffered a net loss of over \$367,000,000. Consequently, Korean Air reduced its budget for 2001 by 10 percent.

In April 2001, Yuson requested Korean Air that she be transferred from the passenger sales department to the cargo department. Yuson wanted to be exposed to the operations of the cargo department because she intended to pursue a cargo agency business after her retirement. On 4 June 2001, Korean Air temporarily transferred Yuson to the cargo department as "cargo dispatch." Yuson continued to receive the same compensation and exercise the same authority as passenger sales manager.

In order to cut costs, Korean Air offered its employees an early retirement program (ERP). In a memorandum[6] dated 21 August 2001, Korean Air stated that:

The results of operation of Korean Air for the Year 2000, was [sic] bad. The Company suffered a net loss of over THREE HUNDRED SIXTY SEVEN MILLION DOLLARS, (USD367,000,000.00). For this reason, the budget for the Year 2001 was reduced by 10%. Accordingly, to prevent further losses, Head Office recently implemented an early retirement program not only for Head Office staffs but throughout all Korean Air branches abroad. Unfortunately, in Head Office alone, 500 positions will be affected. This program is being offered before finally conducting a retrenchment program.

In compliance with Head Office instruction, MNLSM Management, on its discretion, is hereby offering the said early retirement program to its staff. Availing employees shall be given ONE AND A HALF MONTHS (1.50%) [sic] salary for every year of service and other benefits. This rate is 50% higher than the retrenchment pay prevailing in the CBA.

Please accept our deepest regrets.[7]

In a letter[8] dated 23 August 2001 and addressed to Korean Air's Philippine general manager Suk Kyoo Kim (Suk), Yuson accepted the offer for early retirement.

In a letter[9] dated 24 August 2001, Suk informed Yuson that she was excluded from the ERP because she was retiring on 8 January 2002. Suk stated that:

Please be informed that you are excluded from the "Early Retirement Program". The program is intended to staffs, upon discretion of management, who still have long years left with the Company before reaching retirement age. You are already due for retirement on January 8, 2002. This program is being implemented by the Company as a cost saving tool to prevent further losses.[10]

In a letter[11] dated 1 September 2001 and addressed to Suk, Yuson claimed that Korean Air was bound by the perfected contract and accused the company of harassment and discrimination. Yuson stated that:

Korean Air offered the "Early Retirement Program" through its memo under MNLSM#01-13 dated 21 August 2001. I accepted this offer under my letter dated 23 August 2001. With this Offer and Acceptance, a Contract has been legally perfected between Korean Air and myself.

x x x x

Not too long ago, you tried to demote me from my position as Passenger Sales Manager to Cargo Dispatch, a clerical position. This was not only done internally but also communicated with other airlines. This has caused me undue embarrassment and humiliation. x x x

Your unilateral decision to exclude me from the "early Retirement Program" which Head Office has stated as (and I quote) "..... [sic] not only for Head Office staffs but THROUGHOUT ALL KOREAN AIR BRANCHES ABROAD" is another case of harassment and discrimination. It is very clear that the Program does not allow for discretion on the part of Korean Air -- MNL Manager to harass or discriminate against any employee for any reason whatsoever, be it age, gender or nationality.

I therefore request that Korean Air perform its obligation arising out of a Contract legally perfected with the Offer of 21 August 2001 and Acceptance of 23 August 2001. I sincerely hope I will not have to engage the services of counsel to enforce performance of our Contract as this will subject me to further distress and mental anguish, plus a considerable amount of expenditure, which can be the basis for additional claim for damages.[12]

In a letter[13] dated 12 September 2001 and addressed to Yuson, Suk stated that:

- The "Early Retirement Program" ("ERP") is a plan by the Head Office for the purpose of reducing the workforce of Korean Air (the "Company") due to substantial losses prior to undertaking a retrenchment program. Contrary to your assertion, my letter dated 21 August 2001 was not an absolute offer but rather an invitation to possible qualified employees to consider the ERP subject to the approval and acceptance by the Company, through the Head Office, in the exercise of its discretion. x x x

- This explains the Company's position stated in my letter-response dated 24 August 2001 wherein the ERP is supposedly for employees who have still a number of years to serve the Company in order to prevent further losses. It is, therefore, clear why you are disqualified under the ERP since you are scheduled to retire on 08 January 2002. There is no closure of business contemplated herein but merely a reduction of personnel to

prevent further losses to the Company.

- x x x x

- It is unfortunate that you invoke the afore-said [sic] announcement knowing that as early as April 2001, your request for payment of one and one-half 1 and 1/2 months for every year of service retirement benefit was denied by our SSG, Mr. Lee. As unmistakably explained to you, you cannot avail of the ERP since you are due to retire on 08 January 2002. As a cost-saving measure, it would be contrary to this objective of the Company to include you simply because "you accept the offer for early retirement."

- On the other hand, you have also been informed that since you have less than one (1) year from your retirement date, you have the option to retire before such date. x x x

- Also, as in previous ERPs implemented by the Company, you very well know as Sales Manager that the Head Office does the acceptance and approval of any ERP application. In fact, in the case of your staff, I even consult your opinion before forwarding MNLSM's recommendation on the matter to the Head Office. x x x

- x x x x

- For the record, your supposed transfer from Passenger Sales Department to the Cargo Department on June 4, 2001 was upon your own request in April 2001 since, as you mentioned to me, you intend to pursue a cargo agency business with your sister upon your retirement. x x x

- Lest you forgot our discussion on the matter, you were never demoted from your position as Sales Manager, whether in terms of your compensation or scope of authority. As agreed upon, your transfer was temporary for you to learn the particulars involving cargo operations. In fact, I never appointed a new Sales Manager to replace you.

- The term "Cargo Dispatch", again as known to you, is a phrase peculiar to the Company referring to the Cargo Department. I, for instance, while assigned as Regional Sales Manager of Manila, if temporarily assigned to Hongkong [sic] Cargo, would be referred to as "HKGRH Cargo Dispatch". This position, despite the title, is obviously not clerical or derogatory of my rank and authority.

- Everybody in our Office can attest to the truth that you yourself requested the temporary transfer to cargo. I am saddened, therefore, to hear, especially from you, of your accusation that I have tried to demote and/or discriminate against you. For your information, before your transfer, I even instructed SSF, Mr. Kim, to extend his full support to you in your desire to learn cargo operations.[14]

In a memorandum[15] dated 20 September 2001, Korean Air informed its employees that application for the ERP ended on 15 September 2001 and that only the applications of eligible employees shall be forwarded to the head office for approval.

In a letter[16] dated 22 September 2001 and addressed to Suk, Yuson reiterated her claims that (1) Korean Air's offer for early retirement and her acceptance of the offer constituted a perfected contract; (2) Korean Air unjustly transferred her from passenger sales department to cargo department; and (3) the transfer caused her embarrassment.

In a letter[17] dated 10 October 2001 and addressed to Yuson, Suk stated that:

- We believe that the Company's position regarding the Early Retirement Program ("ERP") has been fully explained to you in our letters dated 21 September 2001 and 24 August 2001, respectively.

- You complained of "injustice", "undue embarrassment and humiliation", in relation to your transfer to Cargo. However, in our meeting on 04 October 2001, with SSG, Tito Cosico and Chito Cajucom, you informed us to "forget about the issue on discrimination concerning Cargo Dispatch, since you just included it when you were

excluded from the ERP". Furthermore, you also stated "I like to be in Cargo, I love working in Cargo, I have no regrets".[18]

In a letter[19] dated 6 November 2001 and addressed to Suk, a certain Patricia A. Galang, representing Yuson, followed up and made a final demand for Yuson's benefit under the ERP. In another letter[20] dated 27 November 2001 and addressed to Suk, Yuson applied for travel benefit under the IPM. Chapter 14, Section 2.14.3.4 of the manual states:

2.14.3.4 Retired Officers or Employees

Retired officers or employees may be granted free transportation on the following basis provided that the application therefore shall be submitted to the office which he/she belonged just before retirement for approval not later than maximum five years from the date of retirement:

x x x x

b) Employees who terminated their employment after having served ten consecutive years or more and their immediate families be favored with their Points (if any) not later than three years from the date of retirement.

c) Officers who completed their term of services or employees who reached full retirement status and their immediate families may be favored with their Points (if any) not later than five years from the date of retirement.[21]

On 28 November 2001, Yuson filed with the arbitration branch of the NLRC a complaint against Korean Air and Suk for payment of benefit under the ERP, moral damages, exemplary damages, and attorney's fees.

In a letter[22] dated 29 November 2001, Suk informed Yuson that the points system as contained in the IPM had never been practiced in the Philippines. Suk stated that:

The points system of earning travel benefits you referred to under Chapter 14 of the International Passenger Manual (IPM) is not applicable in your case since the Company follows the system as agreed upon between MNLSM staffs and Management. You are aware that in our 26 years of operation in Manila, we never used point system in this regard. Doing so can result to a lesser travel benefit which is a violation of the said agreement.[23]

On 8 January 2002, her 60[th] birthday, Yuson availed of the optional retirement under Article 287[24] of the Labor Code, as amended.

On 12 March 2002, Yuson filed with the Makati Prosecution Office a criminal complaint against Korean Air officials Tae Sang Kim (Tae), Kwan Hee Lee (Lee), and Benedicto Cajucom for violation of Article 287. A corresponding information was filed with Branch 146 of the Makati Regional Trial Court (RTC).

Yuson filed with the Bureau of Immigration a complaint for deportation against Korean Air officials Tae, Lee, Byung Jo Kim, Ja Chool Koo, Yoo Jin Kim, Cho Mahn Hung, Kim Seong Ung, Evi Sung Hwang, and Park Jin Suk. In a Resolution[25] dated 30 July 2002, the Bureau dismissed the complaint.

The Labor Arbiter's Ruling

In his 31 January 2003 Decision, Labor Arbiter Santos denied for lack of merit Yuson's claims for benefit under the ERP, for moral and exemplary damages, and for attorney's fees. The dispositive portion of the Decision stated:

WHEREFORE, premises considered, complainant's claim under the Early Retirement Program and payment of moral and exemplary damages, and attorney's fees are hereby denied for lack of merit. Complainant is nevertheless deemed to have opted to retire on January 8, 2002 when she reached the age of sixty years

pursuant to Article 287 of the Labor Code. However, in view of the previous offer of respondent company to pay complainant one (1) month for every year of service, respondent company is accordingly directed to pay complainant her retirement benefits as follows:

Monthly salary x No. of Years in Service

P59,000.00 x 26 years - P1,534,000.00

SO ORDERED.[26]

Labor Arbiter Santos held that (1) the 21 August 2001 ERP memorandum included only rank-and-file, and excluded managerial, employees; (2) the memorandum reserved to Korean Air discretion in approving applications for the ERP; (3) approval of applications for the ERP was a valid exercise of Korean Air's management prerogative; (4) Yuson could not claim benefits under both Article 287 and Korean Air's ERP; (5) Yuson's claim for benefit under the ERP became moot when she availed of the optional retirement under Article 287; (6) Yuson was not entitled to travel benefit under the IPM because Korean Air never implemented such travel benefit; (7) Yuson was not demoted -- she requested to be transferred to the cargo department and continued to receive the same compensation and exercise the same authority as passenger sales manager; (8) Yuson was not entitled to moral damages because there was no showing of evil motive on Korean Air's part; (9) Yuson was not entitled to exemplary damages because Korean Air did not act in a wanton, oppressive, or malevolent manner; and (10) Korean Air acted in good faith.

On 14 February 2003, Tae and Yuson entered into a compromise agreement[27] and amicably settled the criminal case. They stated that:

1. Without necessarily admitting that they violated any law, and in deference to the desire of the Honorable Judge that the parties amicably settle the RTC Case if only to buy peace and avoid a protracted criminal litigation, Messrs. Tae Sang Kim, Benedicto Cajucom and the Company have agreed to pay Adelina A.S. Yuson, and the latter acknowledges receipt from them the amount of ONE MILLION SIX HUNDRED SEVENTY ONE THOUSAND FIVE HUNDRED FORTY SIX PESOS AND NINETY TWO CENTAVOS (P1,671,546.92), representing her retirement benefit pursuant to Article 287 of the Labor Code, as amended. This amount includes six percent (6%) legal interest from the date of her retirement on 8 January 2002 until 8 February 2003, less Ms. Yuson's salary loan balance in the amount of TWENTY FIVE THOUSAND PESOS (P25,000.00). x x x This amount represents a complete settlement of all her claims in the RTC Case and such compensation and benefits to which she may be entitled under Article 287 of the Labor Code, as amended;

2. x x x x

3. x x x x

4. x x x x

5. The parties hereby agree and understand that the withdrawal of the RTC Case is without prejudice to other claims, which Mrs. Yuson may have in the NLRC Case. The parties agree and understand that Ms. Yuson shall continue to pursue her claims in the NLRC Case, which shall remain pending until final decision by the NLRC and the appropriate courts. The parties agree that Ms. Yuson shall deduct the amount of ONE MILLION FIVE HUNDRED NINETY THREE THOUSAND ONE PESOS AND EIGHTY CENTAVOS (P1,593,001.80), which she received under this Compromise Agreement, from the amount that will be awarded to her by the NLRC and the appropriate courts should the NLRC Case be decided in her favor.[28]

Yuson filed with the NLRC an appeal memorandum[29] dated 10 March 2003 challenging Labor Arbiter Santos' 31 January 2003 Decision. The NLRC referred the case to Labor Arbiter Cristeta D. Tamayo (Labor Arbiter Tamayo) for report and recommendation.

The NLRC's Ruling

In its 30 January 2004 Decision,[30] the NLRC adopted the report and recommendations of Labor Arbiter Tamayo to order Korean Air and Suk to pay Yuson her benefit under the ERP and to give her 10 Korean Air economy tickets.

Korean Air and Suk filed with the NLRC a motion[31] for reconsideration dated 6 May 2004. In its 30 July 2004 Resolution, the NLRC set aside its 30 January 2004 Decision and affirmed Labor Arbiter Santos' 31 January 2003 Decision. The NLRC held that (1) the 21 August 2001 memorandum reserved to Korean Air discretion in approving applications for the ERP; (2) approval of applications for the ERP was a valid exercise of Korean Air's management prerogative; (3) Yuson was retiring on 8 January 2002; (4) inclusion of Yuson in the ERP would have been contrary to the objective of the program as a cost-saving scheme; (5) Labor Arbiter Tamayo had no basis in granting Yuson 10 Korean Air economy tickets; (6) Yuson did not show that Korean Air ever implemented the travel benefit under the IPM; and (7) Korean Air and Suk adequately showed that the company had been giving one Korean Air ticket to retiring employees.

Yuson filed with the Court of Appeals a petition[32] for certiorari under Rule 65 of the Rules of Court.

The Court of Appeals' Ruling

In its 28 June 2005 Decision, the Court of Appeals set aside the NLRC's 30 July 2004 Resolution and affirmed the commission's 30 January 2004 Decision. The Court of Appeals held that (1) the 21 August 2001 memorandum included both rank-and-file and managerial employees; (2) Korean Air's offer for early retirement and Yuson's acceptance of the offer constituted a perfected contract under Article 1315 of the Civil Code; (3) Korean Air forced Yuson to retire on 8 January 2002; and (4) Korean Air's reason for excluding Yuson in the ERP was misplaced because the company would have incurred more costs by keeping Yuson in its employ until her compulsory retirement on 8 January 2007.

Hence, the present petition.

The Issues

Korean Air and Suk raise as issues that the Court of Appeals erred in (1) failing to consider that Yuson's claim for benefit under the ERP became moot when she availed of the optional retirement under Article 287 of the Labor Code, as amended; (2) ruling that Yuson may claim benefit under the ERP; and (3) awarding Yuson 10 Korean Air economy tickets.

The Court's Ruling

The petition is meritorious.

On 8 January 2002, Yuson availed of the optional retirement under Article 287 of the Labor Code, as amended. The third paragraph of Article 287 states that:

In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

On 14 February 2003, Yuson accepted P1,671,546.92 as retirement benefit under Article 287. The compromise agreement between Tae and Yuson stated that:

Without necessarily admitting that they violated any law, and in deference to the desire of the Honorable Judge that the parties amicably settle the RTC Case if only to buy peace and avoid a protracted criminal litigation, Messrs. Tae Sang Kim, Benedicto Cajucom and the Company have agreed to pay Adelina A.S. Yuson, and the latter acknowledges receipt from them the amount of ONE MILLION SIX HUNDRED SEVENTY ONE THOUSAND FIVE HUNDRED FORTY SIX PESOS AND NINETY TWO CENTAVOS (P1,671,546.92), representing her retirement benefit pursuant to Article 287 of the Labor Code, as amended. This amount includes six percent (6%) legal interest from the date of her retirement on 8 January 2002 until 8 February 2003, less Ms. Yuson's salary loan balance in the amount of TWENTY FIVE THOUSAND PESOS (P25,000.00). x x x This amount represents a complete settlement of all her claims in the RTC Case and such compensation and benefits to which she may be entitled under Article 287 of the Labor Code, as amended.[33] (Emphasis supplied)

Yuson's claim for benefit under the ERP became moot when she availed of the optional retirement under Article 287 and accepted the benefit. By her acceptance of the benefit, Yuson is deemed to have opted to retire under Article 287. In *Capili v. National Labor Relations Commission*,[34] the Court held that:

[A] supervening event worked against the petitioner. On 30 April 1994, after receiving the Labor Arbiter's decision but before filing his appeal from that decision, the petitioner received partial payment of his retirement pay and other accrued benefits from respondent UM. During the pendency of his appeal with the NLRC, specifically, on 6 October 1994, he received full payment of his retirement benefits. In his Counter-Manifestation he declared:

COMPLAINANT-APPELLANT . . . most respectfully maintains that the partial acceptance of the retirement benefits does not render the instant case moot and academic. The complainant-appellant who had long and unjustly been denied of his retirement benefits since August 18, 1993 cannot be expected to remain idle.

By his acceptance of retirement benefits the petitioner is deemed to have opted to retire under the third paragraph of Article 287 of the Labor Code, as amended by R.A. No. 7641. Thereunder he could choose to retire upon reaching the age of 60 years, provided it is before reaching 65 years, which is the compulsory age of retirement.

Also worth noting is his statement that he "had long and unjustly been denied of his retirement benefits since August 18, 1993." Elsewise stated, he was entitled to retirement benefits as early as 18 August 1993 but was denied thereof without justifiable reason. This could only mean that he has already acceded to his retirement, effective on such date -- when he reached the age of 60 years.[35] (Emphasis supplied)

The Court of Appeals held that Yuson may claim benefit under the ERP because "the offer was certain and the acceptance is absolute; hence, there is a valid contract pursuant to the last paragraph of Article 1315 of the New Civil Code." [36]

The Court disagrees. Articles 1315, 1318 and 1319 of the Civil Code, respectively, state:

Art. 1315. Contracts are perfected by mere consent, and from that moment the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law.

Art. 1318. There is no contract unless the following requisites concur:

- (1) Consent of the contracting parties;
- (2) Object certain which is the subject matter of the contract;
- (3) Cause of the obligation which is established.

Art. 1319. Consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause

which are to constitute the contract. The offer must be certain and the acceptance absolute. x x x (Emphasis supplied)

An offer is a unilateral proposition made by one party to another for the celebration of a contract. For an offer to be certain, a contract must come into existence by the mere acceptance of the offeree without any further act on the offeror's part. The offer must be definite, complete and intentional. In *Spouses Paderes v. Court of Appeals*,^[37] the Court held that, "There is an 'offer' in the context of Article 1319 only if the contract can come into existence by the mere acceptance of the offeree, without any further act on the part of the offeror. Hence, the 'offer' must be definite, complete and intentional."^[38]

In the present case, the offer is not certain: (1) the 21 August 2001 memorandum clearly states that, "MNLSM Management, on its discretion, is hereby offering the said early retirement program to its staff"; (2) applications for the ERP were forwarded to the head office for approval, and further acts on the offeror's part were necessary before the contract could come into existence; and (3) the 21 August 2001 memorandum clearly states Korean Air's intention, which was, "to prevent further losses." Korean Air could not have intended to ministerially approve all applications for the ERP.

The Court of Appeals held that Korean Air forced Yuson to retire on 8 January 2002. The Court of Appeals stated that, "By its letter of August 24, 2001, Private Respondent is forcing Petitioner to retire even if the choice of optional retirement belongs to the latter."^[39]

The Court disagrees. The surrounding circumstances show that Korean Air did not force Yuson to retire on 8 January 2002. Yuson was actually retiring on 8 January 2002: (1) in April 2001, Yuson requested Korean Air that she be transferred to the cargo department because she intended to pursue a cargo agency business after her retirement; (2) in its 24 August and 12 September 2001 letters, Korean Air clearly stated that Yuson was retiring on 8 January 2002; (3) Yuson never corrected or denied Korean Air's statements regarding her retirement date; (4) on 8 January 2002, Yuson retired under Article 287 of the Labor Code, as amended; (5) in his 31 January 2003 Decision, Labor Arbiter Santos stated, "As admitted by complainant, she was set to retire by January 2002";^[40] and (6) in its 30 July 2004 Resolution, the NLRC stated, "it was shown in the records of this case that [Yuson] was about to retire sometime in January 2002, which in fact happened."^[41]

Approval of applications for the ERP is within Korean Air's management prerogatives. The exercise of management prerogative is valid as long as it is not done in a malicious, harsh, oppressive, vindictive, or wanton manner.^[42] In the present case, the Court sees no bad faith on Korean Air's part. The 21 August 2001 memorandum clearly states that Korean Air, on its discretion, was offering ERP to its employees. The memorandum also states that the reason for the ERP was to prevent further losses. Korean Air did not abuse its discretion when it excluded Yuson in the ERP. To allow Yuson to avail of the ERP would have been contrary to the purpose of the ERP.

The Court of Appeals awarded Yuson 10 Korean Air economy tickets. The Court disagrees. Aside from a photocopy of two pages of the IPM, the records fail to show the basis for the award of the tickets. Even the Court of Appeals totally failed to discuss the basis for the award. In his 31 January 2003 Decision, Labor Arbiter Santos held that Yuson was not entitled to the tickets. Labor Arbiter Santos stated that:

Anent the issue on the applicability of the IPM, complainant alleged that the non-implementation thereof with respect to her was a discriminatory act on the part of the respondents. Such argument would have been meritorious if said policy was used in the Philippines by respondent company but was denied her. x x x

Verily the use of different policies for employees' benefits in various countries is not necessarily discriminatory. Complainant's reliance on *Pakistan International Airlines vs. Ople* (190 SCRA 90) is

unfortunately misplaced. In said case, the issue is the enforceability of the provisions in the employment contract which provided for the exclusive application of Pakistani laws in case of labor disputes and the venue for settlement of any dispute arising out of or in connection with the contract which should only be heard in the courts of Karachi, Pakistan. For this reason, the Supreme Court correctly ruled that said provision was inapplicable considering that employer-employee relationship is imbued with public interest, thus, Philippine laws were applicable.[43]

In its 30 July 2004 Resolution, the NLRC also held that Yuson was not entitled to the tickets. The NLRC stated that:

[O]n the award of ten (10) Korean Air tickets, we likewise assiduously re-examined the record of this case and we must admit that we have overlooked the fact that in the recommendation made by Labor Arbiter Cristeta D. Tamayo, which as we stated earlier was adopted en toto by former Commissioner Vicente S.E. Veloso, except in her summation, there was nothing in her disquisition which shows that she ever discussed the basis of her award of ten Korean Air tickets in favor of complainant. "Decisions, however, concisely written, must distinctly and clearly set forth the facts and the law upon which they are based, a rule applicable as well to dispositions by quasi-judicial and administrative bodies." (Naguiat vs. NLRC, 269 SCRA 664) In any event, while it may be argued that the "point system" of earning travel benefits is mentioned in Chapter 14, Section 2.14.3.4 of the International Passenger Manual of Korean Air, nevertheless, it is also very clear that complainant has not shown that this policy has been implemented in the Philippines or has ever been granted to local managers. In the absence of a single precedent where this privilege was extended by the respondent company, the effort of complainant to prove her entitlement to this benefit must also fall on barren ground. In contrast, respondents have adequately shown that, during complainant's tenure, respondent company has extended to her CBA benefits on free tickets, and even more. Certainly, complainant cannot enjoy the best of both worlds, so to speak.[44]

Korean Air had never implemented the IPM in the Philippines. Its employees, including Yuson, received the travel benefit under the CBA. During her 26-year stay in Korean Air, Yuson already received more than 10 tickets.

WHEREFORE, we GRANT the petition. We SET ASIDE the 28 June 2005 Decision and 3 November 2005 Resolution of the Court of Appeals in CA-G.R. SP No. 86762, and AFFIRM the 30 July 2004 Resolution of the National Labor Relations Commission in NLRC NCR CA No. 034928-03 which, in turn, affirmed the 31 January 2003 Decision of the Labor Arbiter in NLRC-NCR S Case No. 30-11-05543-01.

SO ORDERED.

Brion[*], Peralta, Abad, and Perez[**], JJ., concur.

[*] Designated additional member per Raffle dated 2 January 2010.

[**] Designated additional member per Special Order No. 842.

[1] Rollo, pp. 3-50.

[2] Id. at 58-86. Penned by Associate Justice Jose L. Sabio, Jr., with Associate Justices Noel G. Tijam and Mariflor P. Punzalan Castillo concurring.

[3] Id. at 88-89.

[4] Id. at 248-259. Penned by Commissioner Ernesto S. Dinopol, with Presiding Commissioner Roy V. Señeres and Commissioner Romeo L. Go concurring.

[5] Id. at 91-103. Penned by Labor Arbiter Ariel Cadiente Santos.

[6] Id. at 135.

[7] Id.

[8] Id. at 136.

[9] Id. at 137.

[10] Id.

[11] Id. at 138.

[12] Id.

[13] Id. at 139-141.

[14] Id.

[15] Id. at 535.

[16] Id. at 142-144.

[17] Id. at 539.

[18] Id.

[19] Id. at 145.

[20] Id. at 146.

[21] Id. at 147.

[22] Id. at 542.

[23] Id.

[24] Article 287 of the Labor Code states:

ART. 287. Retirement. -- Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.

In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other agreements: Provided, however, That an employee's retirement benefits under any collective bargaining and other agreements shall not be less than those provided therein.

In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

Unless the parties provide for broader inclusions, the term 'one-half (1/2) month salary' shall mean fifteen (15) days plus one-twelfth (1/12) of the 13th month pay and the cash equivalent of not more than five (5) days of service incentive leaves.

Retail, service and agricultural establishments or operations employing not more than ten (10) employees or workers are exempted from the coverage of this provision.

Violation of this provision is hereby declared unlawful and subject to the penal provisions under Article 288 of this Code.

[25] Rollo, pp. 185-187. Penned by Commissioner Andrea D. Domingo.

[26] Id. at 103.

[27] Id. at 151-153.

[28] Id. at 151-152.

[29] Id. at 105-127.

[30] Id. at 189-211.

[31] Id. at 213-228.

[32] Id. at 260-288.

[33] Id. at 151.

[34] G.R. No. 120802, 17 June 1997, 273 SCRA 576.

[35] Id. at 589-590.

[36] Rollo, p. 83.

[37] 502 Phil. 76 (2005).

[38] Id. at 93.

[39] Rollo, p. 84.

[40] Id. at 98.

[41] Id. at 256.

[42] *Magdadaro v. Philippine National Bank*, G.R. No. 166198, 17 July 2009, 593 SCRA 195, 201.

[43] Rollo, pp. 99-100.

[44] Id. at 257-258.

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