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G.R. No. 172013. October 02, 2009

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is a petition for review on certiorari under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[1] and the Resolution[2] of the Court of Appeals (CA) in CA-G.R. SP. No. 86813.

Petitioners were employed as female flight attendants of respondent Philippine Airlines (PAL) on different dates prior to November 22, 1996. They are members of the Flight Attendants and Stewards Association of the Philippines (FASAP), a labor organization certified as the sole and exclusive bargaining representative of the flight attendants, flight stewards and pursers of respondent.

On July 11, 2001, respondent and FASAP entered into a Collective Bargaining Agreement[3] incorporating the terms and conditions of their agreement for the years 2000 to 2005, hereinafter referred to as PAL-FASAP CBA.

Section 144, Part A of the PAL-FASAP CBA, provides that:

A. For the Cabin Attendants hired before 22 November 1996:

x x x x

3. Compulsory Retirement

Subject to the grooming standards provisions of this Agreement, compulsory retirement shall be fifty-five (55) for females and sixty (60) for males. x x x.

In a letter dated July 22, 2003,[4] petitioners and several female cabin crews manifested that the aforementioned CBA provision on compulsory retirement is discriminatory, and demanded for an equal treatment with their male counterparts. This demand was reiterated in a letter[5] by petitioners' counsel addressed to respondent demanding the removal of gender discrimination provisions in the coming re-negotiations of the PAL-FASAP CBA.

On July 12, 2004, Robert D. Anduiza, President of FASAP submitted their 2004-2005 CBA proposals[6] and manifested their willingness to commence the collective bargaining negotiations between the management and the association, at the soonest possible time.

On July 29, 2004, petitioners filed a Special Civil Action for Declaratory Relief with Prayer for the Issuance of Temporary Restraining Order and Writ of Preliminary Injunction[7] with the Regional Trial Court (RTC) of Makati City, Branch 147, docketed as Civil Case No. 04-886, against respondent for the invalidity of Section 144, Part A of the PAL-FASAP CBA. The RTC set a hearing on petitioners' application for a TRO and, thereafter,

required the parties to submit their respective memoranda.

On August 9, 2004, the RTC issued an Order[8] upholding its jurisdiction over the present case. The RTC reasoned that:

In the instant case, the thrust of the Petition is Sec. 144 of the subject CBA which is allegedly discriminatory as it discriminates against female flight attendants, in violation of the Constitution, the Labor Code, and the CEDAW. The allegations in the Petition do not make out a labor dispute arising from employer-employee relationship as none is shown to exist. This case is not directed specifically against respondent arising from any act of the latter, nor does it involve a claim against the respondent. Rather, this case seeks a declaration of the nullity of the questioned provision of the CBA, which is within the Court's competence, with the allegations in the Petition constituting the bases for such relief sought.

The RTC issued a TRO on August 10, 2004,[9] enjoining the respondent for implementing Section 144, Part A of the PAL-FASAP CBA.

The respondent filed an omnibus motion[10] seeking reconsideration of the order overruling its objection to the jurisdiction of the RTC the lifting of the TRO. It further prayed that the (1) petitioners' application for the issuance of a writ of preliminary injunction be denied; and (2) the petition be dismissed or the proceedings in this case be suspended.

On September 27, 2004, the RTC issued an Order[11] directing the issuance of a writ of preliminary injunction enjoining the respondent or any of its agents and representatives from further implementing Sec. 144, Part A of the PAL-FASAP CBA pending the resolution of the case.

Aggrieved, respondent, on October 8, 2004, filed a Petition for Certiorari and Prohibition with Prayer for a Temporary Restraining Order and Writ of Preliminary Injunction[12] with the Court of Appeals (CA) praying that the order of the RTC, which denied its objection to its jurisdiction, be annulled and set aside for having been issued without and/or with grave abuse of discretion amounting to lack of jurisdiction.

The CA rendered a Decision, dated August 31, 2005, granting the respondent's petition, and ruled that:

WHEREFORE, the respondent court is by us declared to have NO JURISDICTION OVER THE CASE BELOW and, consequently, all the proceedings, orders and processes it has so far issued therein are ANNULLED and SET ASIDE. Respondent court is ordered to DISMISS its Civil Case No. 04-886.

SO ORDERED.

Petitioner filed a motion for reconsideration,[13] which was denied by the CA in its Resolution dated March 7, 2006.

Hence, the instant petition assigning the following error:

THE COURT OF APPEALS' CONCLUSION THAT THE SUBJECT MATTER IS A LABOR DISPUTE OR GRIEVANCE IS CONTRARY TO LAW AND JURISPRUDENCE.

The main issue in this case is whether the RTC has jurisdiction over the petitioners' action challenging the legality or constitutionality of the provisions on the compulsory retirement age contained in the CBA between respondent PAL and FASAP.

Petitioners submit that the RTC has jurisdiction in all civil actions in which the subject of the litigation is incapable of pecuniary estimation and in all cases not within the exclusive jurisdiction of any court, tribunal, person or body exercising judicial or quasi-judicial functions. The RTC has the power to adjudicate all

controversies except those expressly withheld from the plenary powers of the court. Accordingly, it has the power to decide issues of constitutionality or legality of the provisions of Section 144, Part A of the PAL-FASAP CBA. As the issue involved is constitutional in character, the labor arbiter or the National Labor Relations Commission (NLRC) has no jurisdiction over the case and, thus, the petitioners pray that judgment be rendered on the merits declaring Section 144, Part A of the PAL-FASAP CBA null and void.

Respondent, on the other hand, alleges that the labor tribunals have jurisdiction over the present case, as the controversy partakes of a labor dispute. The dispute concerns the terms and conditions of petitioners' employment in PAL, specifically their retirement age. The RTC has no jurisdiction over the subject matter of petitioners' petition for declaratory relief because the Voluntary Arbitrator or panel of Voluntary Arbitrators have original and exclusive jurisdiction to hear and decide all unresolved grievances arising from the interpretation or implementation of the CBA. Regular courts have no power to set and fix the terms and conditions of employment. Finally, respondent alleged that petitioners' prayer before this Court to resolve their petition for declaratory relief on the merits is procedurally improper and baseless.

The petition is meritorious.

Jurisdiction of the court is determined on the basis of the material allegations of the complaint and the character of the relief prayed for irrespective of whether plaintiff is entitled to such relief.[14]

In the case at bar, the allegations in the petition for declaratory relief plainly show that petitioners' cause of action is the annulment of Section 144, Part A of the PAL-FASAP CBA. The pertinent portion of the petition recites:

CAUSE OF ACTION

24. Petitioners have the constitutional right to fundamental equality with men under Section 14, Article II, 1987 of the Constitution and, within the specific context of this case, with the male cabin attendants of Philippine Airlines.

26. Petitioners have the statutory right to equal work and employment opportunities with men under Article 3, Presidential Decree No. 442, The Labor Code and, within the specific context of this case, with the male cabin attendants of Philippine Airlines.

27. It is unlawful, even criminal, for an employer to discriminate against women employees with respect to terms and conditions of employment solely on account of their sex under Article 135 of the Labor Code as amended by Republic Act No. 6725 or the Act Strengthening Prohibition on Discrimination Against Women.

28. This discrimination against Petitioners is likewise against the Convention on the Elimination of All Forms of Discrimination Against Women (hereafter, "CEDAW"), a multilateral convention that the Philippines ratified in 1981. The Government and its agents, including our courts, not only must condemn all forms of discrimination against women, but must also implement measures towards its elimination.

29. This case is a matter of public interest not only because of Philippine Airlines' violation of the Constitution and existing laws, but also because it highlights the fact that twenty-three years after the Philippine Senate ratified the CEDAW, discrimination against women continues.

31. Section 114, Part A of the PAL-FASAP 2000-20005 CBA on compulsory retirement from service is invidiously discriminatory against and manifestly prejudicial to Petitioners because, they are compelled to retire at a lower age (fifty-five (55) relative to their male counterparts (sixty (60)).

33. There is no reasonable, much less lawful, basis for Philippine Airlines to distinguish, differentiate or classify cabin attendants on the basis of sex and thereby arbitrarily set a lower compulsory retirement age of 55 for Petitioners for the sole reason that they are women.

37. For being patently unconstitutional and unlawful, Section 114, Part A of the PAL-FASAP 2000-2005 CBA must be declared invalid and stricken down to the extent that it discriminates against petitioner.

38. Accordingly, consistent with the constitutional and statutory guarantee of equality between men and women, Petitioners should be adjudged and declared entitled, like their male counterparts, to work until they are sixty (60) years old.

PRAYER

WHEREFORE, it is most respectfully prayed that the Honorable Court:

c. after trial on the merits:

(I) declare Section 114, Part A of the PAL-FASAP 2000-2005 CBA INVALID, NULL and VOID to the extent that it discriminates against Petitioners; x x x x

From the petitioners' allegations and relief prayed for in its petition, it is clear that the issue raised is whether Section 144, Part A of the PAL-FASAP CBA is unlawful and unconstitutional. Here, the petitioners' primary relief in Civil Case No. 04-886 is the annulment of Section 144, Part A of the PAL-FASAP CBA, which allegedly discriminates against them for being female flight attendants. The subject of litigation is incapable of pecuniary estimation, exclusively cognizable by the RTC, pursuant to Section 19 (1) of Batas Pambansa Blg. 129, as amended.[15] Being an ordinary civil action, the same is beyond the jurisdiction of labor tribunals.

The said issue cannot be resolved solely by applying the Labor Code. Rather, it requires the application of the Constitution, labor statutes, law on contracts and the Convention on the Elimination of All Forms of Discrimination Against Women,[16] and the power to apply and interpret the constitution and CEDAW is within the jurisdiction of trial courts, a court of general jurisdiction. In *Georg Grotjahn GMBH & Co. v. Isnani*,[17] this Court held that not every dispute between an employer and employee involves matters that only labor arbiters and the NLRC can resolve in the exercise of their adjudicatory or quasi-judicial powers. The jurisdiction of labor arbiters and the NLRC under Article 217 of the Labor Code is limited to disputes arising from an employer-employee relationship which can only be resolved by reference to the Labor Code, other labor statutes, or their collective bargaining agreement.

Not every controversy or money claim by an employee against the employer or vice-versa is within the exclusive jurisdiction of the labor arbiter. Actions between employees and employer where the employer-employee relationship is merely incidental and the cause of action precedes from a different source of obligation is within the exclusive jurisdiction of the regular court.[18] Here, the employer-employee relationship between the parties is merely incidental and the cause of action ultimately arose from different sources of obligation, i.e., the Constitution and CEDAW.

Thus, where the principal relief sought is to be resolved not by reference to the Labor Code or other labor relations statute or a collective bargaining agreement but by the general civil law, the jurisdiction over the dispute belongs to the regular courts of justice and not to the labor arbiter and the NLRC. In such situations, resolution of the dispute requires expertise, not in labor management relations nor in wage structures and other terms and conditions of employment, but rather in the application of the general civil law. Clearly, such claims fall outside the area of competence or expertise ordinarily ascribed to labor arbiters and the NLRC and the rationale for granting jurisdiction over such claims to these agencies disappears.[19]

If We divest the regular courts of jurisdiction over the case, then which tribunal or forum shall determine the constitutionality or legality of the assailed CBA provision?

This Court holds that the grievance machinery and voluntary arbitrators do not have the power to determine and settle the issues at hand. They have no jurisdiction and competence to decide constitutional issues relative to the questioned compulsory retirement age. Their exercise of jurisdiction is futile, as it is like vesting power to someone who cannot wield it.

In *Gonzales v. Climax Mining Ltd.*,^[20] this Court affirmed the jurisdiction of courts over questions on constitutionality of contracts, as the same involves the exercise of judicial power. The Court said:

Whether the case involves void or voidable contracts is still a judicial question. It may, in some instances, involve questions of fact especially with regard to the determination of the circumstances of the execution of the contracts. But the resolution of the validity or voidness of the contracts remains a legal or judicial question as it requires the exercise of judicial function. It requires the ascertainment of what laws are applicable to the dispute, the interpretation and application of those laws, and the rendering of a judgment based thereon. Clearly, the dispute is not a mining conflict. It is essentially judicial. The complaint was not merely for the determination of rights under the mining contracts since the very validity of those contracts is put in issue.

In *Saura v. Saura, Jr.*,^[21] this Court emphasized the primacy of the regular court's judicial power enshrined in the Constitution that is true that the trend is towards vesting administrative bodies like the SEC with the power to adjudicate matters coming under their particular specialization, to insure a more knowledgeable solution of the problems submitted to them. This would also relieve the regular courts of a substantial number of cases that would otherwise swell their already clogged dockets. But as expedient as this policy may be, it should not deprive the courts of justice of their power to decide ordinary cases in accordance with the general laws that do not require any particular expertise or training to interpret and apply. Otherwise, the creeping take-over by the administrative agencies of the judicial power vested in the courts would render the judiciary virtually impotent in the discharge of the duties assigned to it by the Constitution.

To be sure, in *Rivera v. Espiritu*,^[22] after Philippine Airlines (PAL) and PAL Employees Association (PALEA) entered into an agreement, which includes the provision to suspend the PAL-PALEA CBA for 10 years, several employees questioned its validity via a petition for certiorari directly to the Supreme Court. They said that the suspension was unconstitutional and contrary to public policy. Petitioners submit that the suspension was inordinately long, way beyond the maximum statutory life of 5 years for a CBA provided for in Article 253-A of the Labor Code. By agreeing to a 10-year suspension, PALEA, in effect, abdicated the workers' constitutional right to bargain for another CBA at the mandated time.

In that case, this Court denied the petition for certiorari, ruling that there is available to petitioners a plain, speedy, and adequate remedy in the ordinary course of law. The Court said that while the petition was denominated as one for certiorari and prohibition, its object was actually the nullification of the PAL-PALEA agreement. As such, petitioners' proper remedy is an ordinary civil action for annulment of contract, an action which properly falls under the jurisdiction of the regional trial courts.

The change in the terms and conditions of employment, should Section 144 of the CBA be held invalid, is but a necessary and unavoidable consequence of the principal relief sought, i.e., nullification of the alleged discriminatory provision in the CBA. Thus, it does not necessarily follow that a resolution of controversy that would bring about a change in the terms and conditions of employment is a labor dispute, cognizable by labor tribunals. It is unfair to preclude petitioners from invoking the trial court's jurisdiction merely because it may eventually result into a change of the terms and conditions of employment. Along that line, the trial court is not asked to set and fix the terms and conditions of employment, but is called upon to determine whether CBA is consistent with the laws.

Although the CBA provides for a procedure for the adjustment of grievances, such referral to the grievance machinery and thereafter to voluntary arbitration would be inappropriate to the petitioners, because the union and the management have unanimously agreed to the terms of the CBA and their interest is unified.

In *Pantranco North Express, Inc., v. NLRC*,^[23] this Court held that:

x x x Hence, only disputes involving the union and the company shall be referred to the grievance machinery or voluntary arbitrators.

In the instant case, both the union and the company are united or have come to an agreement regarding the dismissal of private respondents. No grievance between them exists which could be brought to a grievance machinery. The problem or dispute in the present case is between the union and the company on the one hand and some union and non-union members who were dismissed, on the other hand. The dispute has to be settled before an impartial body. The grievance machinery with members designated by the union and the company cannot be expected to be impartial against the dismissed employees. Due process demands that the dismissed workers' grievances be ventilated before an impartial body. x x x .

Applying the same rationale to the case at bar, it cannot be said that the "dispute" is between the union and petitioner company because both have previously agreed upon the provision on "compulsory retirement" as embodied in the CBA. Also, it was only private respondent on his own who questioned the compulsory retirement. x x x.

In the same vein, the dispute in the case at bar is not between FASAP and respondent PAL, who have both previously agreed upon the provision on the compulsory retirement of female flight attendants as embodied in the CBA. The dispute is between respondent PAL and several female flight attendants who questioned the provision on compulsory retirement of female flight attendants. Thus, applying the principle in the aforementioned case cited, referral to the grievance machinery and voluntary arbitration would not serve the interest of the petitioners.

Besides, a referral of the case to the grievance machinery and to the voluntary arbitrator under the CBA would be futile because respondent already implemented Section 114, Part A of PAL-FASAP CBA when several of its female flight attendants reached the compulsory retirement age of 55.

Further, FASAP, in a letter dated July 12, 2004, addressed to PAL, submitted its association's bargaining proposal for the remaining period of 2004-2005 of the PAL-FASAP CBA, which includes the renegotiation of the subject Section 144. However, FASAP's attempt to change the questioned provision was shallow and superficial, to say the least, because it exerted no further efforts to pursue its proposal. When petitioners in their individual capacities questioned the legality of the compulsory retirement in the CBA before the trial court, there was no showing that FASAP, as their representative, endeavored to adjust, settle or negotiate with PAL for the removal of the difference in compulsory age retirement between its female and male flight attendants, particularly those employed before November 22, 1996. Without FASAP's active participation on behalf of its female flight attendants, the utilization of the grievance machinery or voluntary arbitration would be pointless.

The trial court in this case is not asked to interpret Section 144, Part A of the PAL-FASAP CBA. Interpretation, as defined in *Black's Law Dictionary*, is the art of or process of discovering and ascertaining the meaning of a statute, will, contract, or other written document.^[24] The provision regarding the compulsory retirement of flight attendants is not ambiguous and does not require interpretation. Neither is there any question regarding the implementation of the subject CBA provision, because the manner of implementing the same is clear in itself. The only controversy lies in its intrinsic validity.

Although it is a rule that a contract freely entered between the parties should be respected, since a contract is the law between the parties, said rule is not absolute.

In *Pakistan International Airlines Corporation v. Ople*,^[25] this Court held that:

The principle of party autonomy in contracts is not, however, an absolute principle. The rule in Article 1306, of our Civil Code is that the contracting parties may establish such stipulations as they may deem convenient, "provided they are not contrary to law, morals, good customs, public order or public policy." Thus, counter-balancing the principle of autonomy of contracting parties is the equally general rule that provisions of applicable law, especially provisions relating to matters affected with public policy, are deemed written into the contract. Put a little differently, the governing principle is that parties may not contract away applicable provisions of law especially peremptory provisions dealing with matters heavily impressed with public interest. The law relating to labor and employment is clearly such an area and parties are not at liberty to insulate themselves and their relationships from the impact of labor laws and regulations by simply contracting with each other.

Moreover, the relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good.^{x x x} [26] The supremacy of the law over contracts is explained by the fact that labor contracts are not ordinary contracts; these are imbued with public interest and therefore are subject to the police power of the state.^[27] It should not be taken to mean that retirement provisions agreed upon in the CBA are absolutely beyond the ambit of judicial review and nullification. A CBA, as a labor contract, is not merely contractual in nature but impressed with public interest. If the retirement provisions in the CBA run contrary to law, public morals, or public policy, such provisions may very well be voided.^[28]

Finally, the issue in the petition for certiorari brought before the CA by the respondent was the alleged exercise of grave abuse of discretion of the RTC in taking cognizance of the case for declaratory relief. When the CA annulled and set aside the RTC's order, petitioners sought relief before this Court through the instant petition for review under Rule 45. A perusal of the petition before Us, petitioners pray for the declaration of the alleged discriminatory provision in the CBA against its female flight attendants.

This Court is not persuaded. The rule is settled that pure questions of fact may not be the proper subject of an appeal by certiorari under Rule 45 of the Revised Rules of Court. This mode of appeal is generally limited only to questions of law which must be distinctly set forth in the petition. The Supreme Court is not a trier of facts.^[29]

The question as to whether said Section 114, Part A of the PAL-FASAP CBA is discriminatory or not is a question of fact. This would require the presentation and reception of evidence by the parties in order for the trial court to ascertain the facts of the case and whether said provision violates the Constitution, statutes and treaties. A full-blown trial is necessary, which jurisdiction to hear the same is properly lodged with the the RTC. Therefore, a remand of this case to the RTC for the proper determination of the merits of the petition for declaratory relief is just and proper.

WHEREFORE, the petition is PARTLY GRANTED. The Decision and Resolution of the Court of Appeals, dated August 31, 2005 and March 7, 2006, respectively, in CA-G.R. SP. No. 86813 are REVERSED and SET ASIDE. The Regional Trial Court of Makati City, Branch 147 is DIRECTED to continue the proceedings in Civil Case No. 04-886 with deliberate dispatch.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

CONSUELO YNARES-SANTIAGO

Associate Justice

Chairperson

MINITA V. CHICO-NAZARIO

Associate Justice

PRESBITERO J. VELASCO, JR.

Associate Justice

ANTONIO EDUARDO B. NACHURA

Associate Justice

[1] Penned by Associate Justice Salvador J. Valdez, Jr., with Associate Justice Mariano C. Del Castillo and Associate Justice Magdangal M. De Leon., concurring; rollo, pp. 52-71.

[2] Id. at 73-74.

[3] Rollo, pp. 146-193.

[4] Id. at 507-509.

[5] Id. at 510-512.

[6] Rollo, pp. 513-528.

[7] Id. at 124-135.

[8] Rollo, pp. 204-205.

[9] Id. at 206.

[10] Id. at 207-241.

[11] Id. at 302-304.

[12] Rollo, pp. 305-348.

[13] Id. at 425-450.

[14] Polomolok Water District v. Polomolok General Consumers Association, Inc., G.R. No. 162124, October 18, 2007, 536 SCRA 647, 651.

[15] Regional Trial Courts shall exercise exclusive original jurisdiction in all civil actions in which the subject of the litigation is incapable of pecuniary estimation.

[16] Otherwise known as "Bill of Rights for Women" was adopted in December 1979 by the UN General Assembly, it is regarded as the most comprehensive international treaty governing the rights of women. The Philippines became a signatory thereto a year after its adoption by the UN and in 1981, the country ratified it.

[17] G.R. No. 109272, August 10, 1994, 235 SCRA 217, 221. (Emphasis supplied.)

[18] Eviota v. Court of Appeals, G.R. No. 152121, July 29, 2003, 407 SCRA 394, 402.

- [19] San Miguel Corporation v. NLRC, No. L-80774, May 31, 1988, 161 SCRA 719, 730.
- [20] 492 Phil. 682, 695. (2005).
- [21] G.R. No. 136159, September 1, 1999, 313 SCRA 465, 474. (emphasis supplied.)
- [22] G.R. No. 135547, January 23, 2002, 374 SCRA 351.
- [23] G.R. No.95940, July 24, 1996, 259 SCRA 161, 168, citing Sanyo Philippines Workers Union - PSSLU v. Cañizares, G.R. No. 101619, July 8, 1992, 211 SCRA 361.
- [24] Fifth Edition, p. 734.
- [25] G.R.No. 61594, September 28, 1990, 190 SCRA 90, 99.
- [26] New Civil Code, Art. 1700.
- [27] Villa v. National Labor Relations Commission, G.R. No. 117043, January 14, 1998, 284 SCRA 105, 127,128.
- [28] Cainta Catholic School v. Cainta Catholic School Employees Union (CCSEU), G.R. No. 151021, May 4, 2006. 489 SCRA 468, 485.
- [29] Far East Bank & Trust Co. v. CA, 326. Phil. 15, 18. (1996).

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