

NORTHWEST ORIENT AIRLINES, PETITIONER, VS. COURT OF APPEALS, CONCEPCION S. SALONGA, BENJAMIN SALONGA, ANNETTE S. PASTORAL, JOY ANN S. PASTORAL (REPRESENTED BY THEIR PARENTS BENJ...

G.R. No. 83033. June 08, 1990

Ponente: CRUZ, J.

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CRUZ, J.:

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

Three young ladies, Annette Pastoral, Joy Ann Pastoral, and Marilou Velisano, who are among the private respondents herein, were gifted on their graduation with their first trip abroad, to Hongkong, Tokyo and the United States, by their parents. Accompanied by their grandmother, Concepcion Salonga, they flew on April 23, 1978, to Hongkong, where they were to await their plane tickets for the rest of their trip.

On April 26, 1978, Erlinda Pastoral and her uncle, Serafin Salonga, went to the office of the petitioner's agent, the Inter-Pacific Transit, Inc., in Manila to purchase the said tickets. They paid the computed total price of P25,100.40 in the afternoon of that same day and were assured that the tickets would be delivered to the passengers in Hongkong in time for their flight to Japan the following day.

The Hongkong office of the Northwest Orient Airlines found, however, that ITI had made a mistake in the computation of the price of the tickets - in fact, two mistakes. That office first sent a telex to the Manila office that the wrong conversion rates of exchange had been used and that there was a deficit of \$160.70 for each ticket. Then a second telex advised that the 10% mileage surcharge had not been paid, which meant that the revised additional charge should be further increased to \$261.60 per ticket.

As a result of these errors, the NOA office in Hongkong refused to release the prepaid tickets to the four passengers when Annette Pastoral and Marilou Velisano came to claim them on April 27, 1978. They were told they had to pay the additional fare of \$261.60 per ticket. The girls requested the NOA personnel to check with their Manila office, but this request was arrogantly rejected in the presence of many persons. As the flight was scheduled at one o'clock that same afternoon, the girls had no choice but to pay the total differential fare of \$1,046.40.

That unexpected expense depleted their foreign currency and caused them a great deal of tension and inconvenience. They had to stay in a cheap hotel in Tokyo, with all four of them occupying only one room. Marilou got sick. The 69-year old Concepcion, who had a heart condition, fretted. Frantic and worried over their dwindling funds, the girls called up their parents for assistance. Their grandfather, Benjamin Salonga, finally decided to fly to Japan to join them, incurring additional expenses for this purpose.

On January 4, 1979, the private respondents sued the petitioner and ITI for breach of contract and damages. After trial, judgment was rendered for the plaintiffs and the defendants were jointly and severally required:

1. To pay unto the plaintiffs the expenses of Benjamin Salonga from Manila to Tokyo only which should be less than P5,000.00 to include actual fare and incidental expenses of travel;
2. To pay moral damages for physical sufferings, mental anguish, serious anxiety and humiliation in the amount of P400,000.00 incurred by each passenger;
3. To pay exemplary damages unto plaintiffs in the breach of contract and a public duty as a carrier P200,000.00; and
4. To pay for and as attorney's fees P80,000.00 for having failed to honor immediately plaintiffs' just and lawful demand thus compelling plaintiffs to go to court; and to pay the costs of the proceedings.[1]

On its motion for reconsideration, however, ITI was absolved of liability as a mere agent of the petitioner.[2]

On appeal, the findings of the trial court were sustained by the respondent court which, however, modified the decision as follows:

WHEREFORE, the decision appealed from is modified by ordering the defendant Northwest Orient Airlines to pay P50,000.00 to each passenger as moral damages, P10,000.00 each to the passengers as exemplary damages and P50,000.00 as attorney's fees.

The award of P5,000.00 to Benjamin Salonga is eliminated.

Costs against the appellant Northwest Orient Airlines.

SO ORDERED.[3]

The petitioner now challenges this ruling on the ground that there is no factual or legal basis for the award to the plaintiffs of the moral and exemplary damages, and neither are the attorney's fees justified. While it now concedes that it was negligent in computing the correct fare, it insists it had not acted in bad faith or with malice, to warrant the said awards.

The rule, indeed, is that even if there is a breach of contract, as admitted in this case, moral damages are nevertheless not justified where only simple negligence can be imputed to the defendant.

In *China Airlines v. Intermediate Appellate Court*,^[4] we held as follows:

With respect to moral damages, the rule is that the same are recoverable in a damage suit predicated upon a breach of contract of carriage only where (1) the mishap results in the death of a passenger and (2) it is proved that the carrier was guilty of fraud or bad faith, even if death does not result. As the present case does not fall under either of the cited instances, the award of moral damages should be, as it is hereby disallowed.

And only recently, *Sabena Belgian World v. Court of Appeals*^[5] affirmed the doctrine that:

In cases of breach of contract, moral damages can be awarded only where the defendant has acted fraudulently or in bad faith. Mere negligence, even if thereby the plaintiff suffers mental anguish or serious fright is not ground for awarding moral damages.

However, the finding of the trial court in the case at bar is that the petitioner should not be faulted with mere negligence that would absolve it from damages for its breach of contract. Rejecting its defense of good faith, Judge Rafael de la Cruz observed:

To evade liability good faith is being claimed by the defendants in the performance of their part of the obligation. The facts adduced from the pleadings and the records, to our mind, are not sufficient to make good faith the thinly veiled excuse for justification because as aptly said: "A contract to transport passengers is quite different in kind and degree from any other contractual relations. And this is so because of the relation which

an air carrier sustains with the public. Its business is mainly with the traveling public. It invites people to avail of the comfort and advantages it offers. The contract of air carriage therefore generates a relation attended with public duty. Neglect or malfeasance of the carriers' employees, naturally, could give ground for an action for damages."

The Court agrees.

We note first the error upon error committed by the petitioner's agent in computing the passengers' fare, a task with which it was not exactly unfamiliar, being experienced in the travel business. That negligence imposed needless burden on the passengers who had gone on their trip, the first abroad for the three girls, precisely to enjoy themselves. Worse, the negligence, which was strange enough as it was, was not the only vexation. On top of this annoyance was the manner in which the petitioner's personnel in Hongkong sought to rectify the supposed mistakes of its Manila office. It was far from acceptable.

The petitioner's employees should have been at least polite if not even sympathetic and apologetic to the two young girls in the foreign land. Instead they were overbearing and hostile, forgetting that they were dealing not with bothersome persons begging for a free ride. The girls were respectable passengers who had in fact paid for their tickets in advance in the exact amount computed by the petitioner's own agent in Manila.

Annette Pastoral and Marilou Velisano testified that they were treated coldly and arrogantly by the NOA Hongkong personnel. They were flatly told their tickets would not be released unless the additional charge was paid. They were humiliated when their request to contact the Manila office by telex was haughtily rejected in the presence and within hearing of other persons. They were not accorded the courtesy due them even only as ordinary individuals if not, indeed, as pre-paid passengers.

We accept the findings of the lower courts in this regard, absent a clear showing that they were arbitrarily reached. We are satisfied with the evidence that the petitioner's personnel in Hongkong were less than polite to the two young ladies who, it must be added, had not provoked any boorishness. And we also agree with the following observation of the respondent court:

We find no merit in the contention of appellant NOA that no coercion or threat or force (was) used on the passengers in the payment of the additional amount of \$261.00 from each passenger.

The worries and anxiety of the plaintiffs passengers started when the Hongkong office of NOA refused to issue their tickets for the rest of their trip to the United States. There may be no threat with physical sense but the mere fact of the refusal of defendant's office in Hongkong to issue the pre-paid tickets was enough tension as they could be stranded in Hongkong with meager funds.

The cavalier treatment of the two girls at the Hongkong NOA office requires a brief comment. The Court feels it is about time foreigners realized that Filipinos, whatever their station in life, are entitled to the same civility accorded other persons when they are in an alien land. We cannot be dismissed or disdained on the basis of our nationality, which is as proud and as respectable as any other on this earth. The haughty attitude of some foreigners who seem to think they belong to a superior race has irked not a few Filipino travelers. Let it be stressed to our credit that we are not impressed at all by such self-importance. Airlines should especially advise their personnel against superciliousness when dealing with citizens of the Philippines and are cautioned that this Court will not countenance that kind of conduct.

We hold that the acts of the petitioner, assessed in their totality, constituted more than mere negligence and assumed the dimensions of bad faith. There was clear malice here, manifested in the contemptuous disregard of the passenger's protest and the abrupt rejection of their request that the Manila office be contacted for verification of the correct billing. Rudeness is never excusable. It is especially condemnable if it is committed in one's own

country against a foreign guest, as in the case at bar.

It is not correct to say that moral damages are not due Concepcion Salonga and Joy Ann Pastoral because they had not testified on the effects of the petitioner's acts upon them. The other two girls took the stand to describe their common experiences and reactions and were later corroborated by Benjamin Salonga. Their testimonies were enough. It is true that we denied moral damages to the plaintiff in *Francisco v. GSIS*,^[6] because she failed to testify as to her social humiliation, wounded feelings and anxiety. In that case, however, there was absolutely no evidence in this respect from her or from any other source, let alone the fact that bad faith had also not been proved.

But we do agree that the amount awarded in the present case is rather steep. We hereby reduce it to P10,000.00 for each of the four passengers plus another P10,000.00 each for Annette Pastoral and Marilou Velisano for their humiliation at the NOA Hongkong office.

We sustain the award of exemplary damages, to deter the petitioner and other airlines from the commission of the acts complained of by the private respondents. Airlines should always bear in mind the special responsibilities they owe their passengers not only of carrying them safely and comfortably according to their contracts but also of extending to them the courtesy due them in all matters relating to their trip, including reservations, confirmation of bookings, ticketing and other ground and in-flight services. The fare of the passenger includes payment for politeness.

In view of our findings regarding the mala fides of the petitioner, we also approve the award of attorney's fees but reduce it in our discretion to P20,000.00.

WHEREFORE, with the modification of the amount of the moral damages and of the attorney's fees as above indicated, the appealed decision of the respondent court is **AFFIRMED**, with costs against the petitioner.

SO ORDERED.

Narvasa, (Chairman), Gancayco, and Medialdea, JJ., concur.
Griño-Aquino, J., on leave.

[1] Original Records, pp. 219-228.

[2] *Ibid.*, pp. 237-238.

[3] Rollo, pp. 26-38. Decision penned by Coquia, J., with Aldecoa, Jr. and Kalalo, JJ, concurring.

[4] 169 SCRA 226.

[5] G.R. No. 82068, March 31, 1989.

[6] 7 SCRA 577.

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