

## ROYAL CARGO CORPORATION, PETITIONER, VS. CIVIL AERONAUTICS BOARD, RESPONDENT.

*G.R. Nos. 103055-56. January 26, 2004*

Ponente: CALLEJO, SR., J.

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### CALLEJO, SR., J.:

The petitioner Royal Cargo Corporation filed the instant petition for review on certiorari seeking to reverse and set aside the Decision,[1] and the Resolution of the Court of Appeals in CA-G.R. SP No. 22673-74. The appellate court affirmed the resolutions of the Civil Aeronautics Board (respondent Board) directing the petitioner to transfer the top position of its corporation to a Filipino national.

The petition stemmed from the following factual milieu:

The petitioner Royal Cargo Corporation is a stock corporation duly organized and existing under and by virtue of Philippine laws, seventy percent (70%) of which is owned by Filipino citizens and thirty percent (30%) by foreigners. The President of the petitioner company is a foreigner who is married to a Filipina, while the company officers, including the Chairman of the Board, the Executive Vice-President and all the Vice- Presidents are all Filipinos.

On February 25, 1977, the petitioner, then operating under the name Royal Air Cargo, Inc., was initially granted by the respondent Board an indefinite authority to engage in international air freight forwarding. On October 11, 1983, the petitioner changed its corporate name to Royal Cargo Corporation. Subsequently, it filed a petition with the respondent Board requesting for a fixed duration of its authority. By way of Civil Aeronautics Board Resolution No. 140(85) dated April 12, 1985, the petitioner's permit was extended for a period of five years, or until April 11, 1990.

On the day that its permit to operate was to expire, or on April 11, 1990, the petitioner applied for a renewal thereof for another five years. In its petition, it alleged, inter alia, that its president, Michael K. Raeuber, was a German national. Acting thereon, the Air Carrier Accounts System and Field Audit Division of the respondent Board recommended the granting of the petition, provided that the position of president was transferred within thirty days from notice thereof, otherwise the permit would be cancelled, thus:

... [T]hat the Letter of Authority be renewed for another five (5) years, subject to the same terms and conditions stipulated in the original permit, and provided that no alien should interfere in the management as executive officer or occupy top position in the corporation. However, in view of the position occupied by an alien as President, violative of constitutional requirement, we recommend a penalty of P5,000.00 and another P5,000.00 for operating without permit and filing the petition on the day the permit expired. Likewise, the petitioner should be required to transfer the above-mentioned position to a Filipino national, otherwise, said permit shall be revoked if not complied within a period of thirty (30) days. The immediate revocation of permit is not recommended in order not to dislocate the one hundred eleven (111) employees now connected with the petitioner.[2]

Based on the foregoing recommendation and after due hearing conducted thereon, the respondent Board promulgated Resolution No. 209(90), dated June 1, 1990, which reads:

After considering the report of the Staff, the Board RESOLVED, as it hereby resolves to IMPOSE upon Royal Cargo Corporation a fine of P10,000.00, as a penalty for operating with expired permit, payable within ten (10) days from receipt of a copy of this Resolution.

The Board Resolved further to direct Royal Cargo Corporation to transfer its top position to a Filipino national within thirty (30) days from receipt of a copy of this Resolution, otherwise its authority will be revoked.[3]

The petitioner accordingly sought reconsideration of the above resolution, specifically the second paragraph thereof. The respondent Board, in Resolution No. 298(90) dated August 3, 1990, denied the motion, stating the following reasons:

- That it is the policy of the Board to grant a permit to engage in international airfreight forwarding only to citizens of the Philippines as defined in RA 776, as amended;
- That there is no law which precludes the Board from adopting such a policy; and
- That the Board find[s] no valid reason to abandon such policy because foreign capital is not very necessary in the business of airfreight forwarding.[4]

Aggrieved, the petitioner elevated the case to the Court of Appeals. In the assailed Decision of September 30, 1991, the appellate court ruled that as a public utility, the petitioner is covered by the restriction embodied in Section 11, Article XII of the Constitution which provides in part that:

Section 11. ... The participation of foreign investors in the governing body of any public utility enterprise shall be limited to their proportionate share in its capital, and all the executive and managing officers of such corporation or association must be citizens of the Philippines.[5]

The CA, thus, held that the respondent Board did not err in ordering the petitioner to transfer its top position to a Filipino national. The CA also declared that the promulgation of Resolution Nos. 209(90) and 298(90) was well within the prerogatives conferred upon the respondent Board by Sections 10(a) and (b) of Republic Act No. 776:

Sec. 10. Powers and duties of the Board – (A) Except as otherwise provided herein, the Board shall have the powers to regulate the economic aspect of air transportation, and shall have the general supervision and regulation of, the jurisdiction and control over air carriers, general sales agents, cargo sales agents, and airfreight forwarders as well as their property, property rights, equipment, facilities, and franchise, insofar as may be necessary for the purpose of carrying out the provisions of this Act.

(B) The Board may perform such acts, conduct such investigation, issue and amend orders, and make and amend such general or special rules, regulations, and procedures as it shall deem necessary to carry out the provisions of this Act.

Consequently, the CA dismissed the petitioner's appeal for lack of merit.[6] The petitioner sought reconsideration of the aforesaid decision but the CA, in the assailed Resolution of November 27, 1991, denied the petitioner's motion.[7]

Hence, the present recourse. The petitioner alleges that the CA committed a reversible error in rendering the assailed decision and resolution.

In the meantime, pending the resolution of the instant petition, the petitioner's authority to operate as an international airfreight forwarder as applied for under the permit in question expired in 1995. Hence, in a Resolution dated September 22, 2003, the Court directed the parties to manifest to the court within ten (10) days

from notice why the case should not be dismissed for being moot and academic.[8] The Office of the Solicitor General stated that it interposed no objection to the dismissal of the petition on the ground as aforestated.[9] The petitioner, on the other hand, affirmed to this Court that the respondent Board had already renewed the petitioner's authority to operate as an International Airfreight Forwarder for a period of five (5) years up to April 12, 2005.[10]

Clearly, the instant petition has become moot and academic. This is evident from the fact that the permit to operate as an international airfreight forwarder the respondent Board sought to withhold from the petitioner for failing to meet the constitutional Filipinization requirement had already lapsed in 1995. Also, with the current renewal of the petitioner's authority to operate, it is to be assumed that it has finally decided to comply with the citizenship requirement mandated by the constitution for its line of business. Under the circumstances, the dismissal of the case is clearly warranted as the petitioner no longer has any legal interest in the present case.

It is a rule of universal application that courts of justice constituted to pass upon substantial rights will not consider questions where no actual interests are involved; they decline jurisdiction of moot cases. And where the issue has become moot and academic, there is no justiciable controversy, so that a declaration thereon would be of no practical use or value. There is no actual substantial relief to which the petitioner would be entitled and which would be negated by the dismissal of the petition.[11] Thus, the Court will refrain from expressing its opinion in a case where no practical relief may be granted in view of a supervening event.

WHEREFORE, the petition is DENIED for being moot and academic.

**SO ORDERED.**

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

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[1] Penned by Associate Justice Manuel C. Herrera, Chairman, 12<sup>th</sup> Division, with Associate Justices Alfredo L. Benipayo and Cancio C. Garcia concurring.

[2] Rollo, p. 25.

[3] Id. at 35.

[4] Id. at 39.

[5] Id. at 28 (Emphasis supplied).

[6] Id. at 30.

[7] Id. at 32.

[8] Id. at 139.

[9] Id. at 140-143.

[10] Id. at 150-153.

[11] *Gancho-on vs. Secretary of Labor and Employment*, 271 SCRA 204 (1997).

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