SUPREME COURT
SECOND DIVISION

AMELITA M. ESCAREAL, RUBIROSA VERSOZA and DAVE FRANCISCO M. VELASCO,
***Petitioners*,**

-versus-

G.R. No. 151922
April 7, 2005

PHILIPPINE AIRLINES, INC., PATRIA T. CHIONG, JORGE MA. CUI, JR., NATIONAL LABOR RELATIONS COMMISSION (3rd Division),
***Respondents*.**
x----------x

D E C I S I O N

TINGA, *J.*:

The present Petition for Review assails a Court of Appeals Decision[1] declaring that where both contending parties, dissatisfied as they were with the judgment of the National Labor Relations Commission (NLRC), separately elevate said judgment by their respective petitions for certiorari, the first decision by the appellate court in one petition once it assumes finality, constitutes res judicata on the other petition.

The quasi-judicial arbiters and the Court of Appeals, in the two petitions before two of its Divisions, share the following findings of facts,[2] viz:

Petitioners Amelita M. Escareal, Rubirosa Versoza and Dave Francisco M. Velasco (collectively, "petitioners") are regular employees of private respondent Philippine Airlines, Inc. (PAL). They are part of PAL's crew of International Cabin Attendants and as such receive a monthly salary of Nineteen Thousand Pesos (P19,000.00).[3] On the other hand, PAL is a domestic corporation organized and existing under the laws of the Republic of the Philippines, operating as a common carrier transporting passengers and cargo through aircraft, while private respondents Patria T. Chiong and Jorge Ma. Cui, Jr. (collectively, "respondents") are former PAL employees.

Petitioners were among those assigned to serve as cabin crew members of Flight PR501 for Manila to Singapore, scheduled to depart from Manila on 03 April 1997 at 3:00 p.m. and to return to Manila at 8:00 a.m. the next day.

During a pre-flight briefing conducted on the afternoon of departure, PAL Flight Purser, Jaime Gayoso, in the presence of senior PAL officials, announced to the members of the cabin crew a change in the departure time from 3:00 to 5:30 p.m. because the aircraft intended for PR501 would arrive late. Without giving the cabin crew members a chance to voice out their sentiments or objections, Flight Purser Gayoso announced that those taking the flight and its return leg would receive a per diem of Thirty-three US Dollars (US$33.00) due to the resultant reduction in the cabin crew's rest period. It appears that petitioners received per diem without incident.

Upon the conclusion of the pre-flight briefing, at around 3:45 p.m., the cabin crew members were transported via shuttle to the Ninoy Aquino International Airport (NAIA). When they arrived at the NAIA at 4:00 p.m., the crew found out that the aircraft to be used for Flight PR501 was not yet available, a situation which would result in further delay.

Petitioners decided to inform PAL's Line Administrator, Ms. Jesulita de Leon, as well as the union to which all petitioners belong, the Flight Attendants and Stewards Association of the Philippines (FASAP), through a Mr. Ricardo L. Montecillo,[4] their intention to back out from servicing Flight PR 501. Petitioners cited as basis for such intention the consequent decrease in their rest period, which infringed on the minimum rest period granted to them under the 1995 PAL-FASAP Collective Bargaining Agreement (CBA), the pertinent provision of which states:

> Section 38. After the tour of duty, a cabin attendant shall be allowed a rest period of at least twice the number of flight duty hours in his tour-of-duty before he is assigned to another tour-of-duty. The minimum rest period after a tour-of-duty will be twelve (12) hours.

Upon petitioners' request, FASAP's Mr. Montecillo contacted the PAL Scheduling Office and informed the Duty Manager, Mr. Jesus Estenor, about petitioners' intention to back out of the flight and assert their rest period under the CBA. It was agreed between them that it would be in the interest of PAL should petitioners assert their rest period while still in Manila rather than in Singapore.

Before being relieved from their scheduled flight duty by Flight Purser Gayoso and Line Administrator de Leon, petitioners were instructed to return their Thirty-three US Dollar (US $33.00) per diem, proceed by shuttle to the PAL Scheduling Office to make known the resultant changes in the cabin crew complement, and to arrange their next flight duty. These instructions were complied with.

Without further incident, Flight PR501 left Manila with a complete set of replacement cabin attendants at 6:00 p.m. (half an hour later than the adjusted departure time of 5:30 p.m.) and arrived in Singapore at 9:30 p.m.

Petitioners thought that in having caused no interruption in the flight scheduling, they had heard the end of the matter. However, through a "Letter of Inquiry" dated 04 April 1997, petitioners were required by PAL to comment on their failure to take Flight PR501. Petitioner

Velasco submitted his reply on even date while Petitioners Escareal and Versoza submitted their joint reply on 11 April 1997.

Despite the explanation that they were asserting a right provided them under the CBA, PAL found probable cause to administratively charge the petitioners. Petitioners each received a Notice of Administrative Charge dated 22 April 1997 for Conspiracy or Concerted Action, Loitering or Abandonment of Post, Refusal to Take Assignment, and Withholding Cooperation.

On 20 August 1997, petitioners submitted a Manifestation with Omnibus Motion to Dismiss and/or for a Bill of Particulars[5] praying, inter alia, that respondents' witnesses be required to submit their respective statements under oath, in the same manner that herein petitioners were required to file their written answers and counter-affidavits under oath, to ascertain who among them were resorting to falsehood.

Without acting on the Manifestation with Omnibus Motion, PAL rendered a decision finding petitioners guilty as charged and imposing upon them a penalty of a one-year suspension without pay.[6]

On 31 March 1998, petitioners filed a Complaint for Unfair Labor Practices before the NLRC, which was docketed as NLRC-NCR Case No. 00-03-02977-98 and raffled to the sala of Labor Arbiter Manuel Caday.

After the parties submitted their respective Position Papers, Labor Arbiter Caday found no truth to the allegation that petitioners announced their intention to decline servicing Flight PR501 only immediately before take-off, leaving PAL short of time to arrange for relievers. The Labor Arbiter also belied the allegation that none of petitioners returned to the PAL Scheduling Office to notify personnel about the changes in cabin crew complement. It held:

> WHEREFORE, premises considered, judgment is rendered declaring the one (1) year suspension without pay of the complainants illegal and ordering the respondents to reinstate the complainants to their former positions with backwages

> amounting to P228,000.00 each and payment of their unenjoyed holiday pay, vacation and sick leaves (sic) pay and 13th month pay corresponding to the period of their suspension plus 10% of the total award as reasonable attorney's fees.
>
> Complainants claim for damages are hereby dismissed for lack of evidence to support them.
>
> SO ORDERED.[7]

On appeal, the NLRC rendered a Decision[8] reiterating the factual findings of the Labor Arbiter. Nevertheless, it found that the manner by which petitioners asserted their right to a full twelve (12) hours of rest merited the imposition of a one(1)-month suspension. It modified the Labor Arbiter's Decision accordingly, holding thus:

> However, even if there were, indeed, a violation of the CBA on the part of the respondent, it would not completely justify the complainants' refusal to fulfill their duty of rendering service on board flight PR 501. There are specific legal procedures designed to provide relief for the violation of rights under a CBA. They should have availed of such remedies. That is, they should not have taken the law into their own hands.
>
> Considering that the respondent was not faultless and that no harm or delay was caused by the complainants' refusal to take flight PR 501, the penalty of one year suspension meted on them was too harsh. A suspension of one month would have been sufficient. Thus, the eleven-month period of their suspension was unwarranted, and they have a right to recover the salaries and benefits corresponding thereto.
>
> WHEREFORE, the decision is hereby MODIFIED to the extent that only eleven of the twelve-month suspension is hereby declared illegal. Consequently, the judgment award is hereby REDUCED to P209,000.00 (P19,000.00 x 11) plus the complainants' unenjoyed benefits like holiday pay, vacation and sick leave pay and 13th month pay for eleven (11) months. The award of attorney's fees equivalent to ten percent (10%) of the total monetary award is hereby AFFIRMED.

SO ORDERED.[9]

Both parties were dissatisfied with the Decision. Petitioners submitted a Motion for Partial Reconsideration and respondents filed a Motion for Reconsideration. Both, however, were denied by the NLRC in a minute Resolution dated 30 June 1999.[10]

At this point, the twist which served as the root of the crucial issue before the Court took shape.

On 26 July 1999, PAL first filed its original action for certiorari with the Court of Appeals. It was docketed as CA-G.R. SP No. 54099 and assigned to the Thirteenth Division of the Appellate Court. The Petition for Certiorari[11] ascribed to the NLRC grave abuse of discretion in holding: (1) that herein petitioners did not wait until the last minute to inform PAL of their decision not to take Flight PR501; (2) that PAL was not faultless and that no harm or delay was caused by petitioners' acts; and (3) that PAL wanted to keep the facts muddled by failing to require its witnesses to submit their statements under oath. Petitioners filed a Consolidated Comment/Opposition[12] on 31 August 1999, controverting PAL's assertions and buttressing their prayer for the reinstatement of the Decision of the Labor Arbiter.

Despite their earlier submission of the Consolidated Comment/Opposition in CA-G.R. SP No. 54099, petitioners filed on 10 September 1999 their own Petition for Certiorari with the Court of Appeals.[13] It was docketed as CA-G.R. SP No. 54850 and assigned to its Special Eleventh Division. In their petition, which is the precursor to the instant case, petitioners sought the annulment and setting aside of the NLRC's Decision and the reinstatement of the Decision of the Labor Arbiter.

In October of 1999,[14] PAL submitted to the Special Eleventh Division in CA-G.R. SP No. 54850 a Manifestation And Motion Cum Notification Of Pending Action requesting the consolidation of the petition with CA-G.R. SP No. 54099 which is the petition with the lower case number. Apparently, petitioners did not file their own or

separate motion for the consolidation of the two petitions before either Division of the Court of Appeals.

On 12 November 1999, the Thirteenth Division of the Court of Appeals dismissed PAL's petition in CA-G.R. SP No. 54099, holding that there was no justifiable reason to disturb the factual findings of the Labor Arbiter and the NLRC.[15] It also held that at most PAL had raised an error in judgment, which is not correctible through the original civil action of certiorari. Thus, the Court of Appeals affirmed in toto the ruling of the NLRC. This Decision became final and executory on 08 March 2000.[16]

On 15 September 2000, PAL's motion for consolidation was denied[17] for having "untenable" since CA-G.R. SP No. 54099 had already been decided by the Thirteenth Division. The same Resolution ordered respondents to comment on the Petition docketed as CA-G.R. SP No. 54850, and the petitioners to submit a reply thereto. PAL filed a Comment[18] praying for the dismissal of the Petition on the ground of res judicata, to which petitioners replied[19] in opposition. Both parties simultaneously filed their Memoranda on 02 April 2001.

On 29 June 2001, the Special Eleventh Division issued a Decision[20] dismissing CA-G.R. SP No. 54850, on the ground of res judicata, since the issues therein were already conclusively determined in CA-G.R. SP No. 54099, to wit:

> In the case at bench, it is undeniable that this Court had jurisdiction to render a final judgment or order in CA G.R. SP No. 54099 which already became final and executory. Such finality is conclusive between petitioners and respondent PAL "with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto. The "matter directly adjudged" is legality of the eleven (11) months suspension. The "other matter that could have been raised in relation thereto" is the remaining one (1) month suspension. Moreover, the resolution of the issue pertaining to the remaining one (1) month suspension is "actually and necessarily included" in the resolution of the issue pertaining to the eleven (11) months suspension.[21] (Emphasis in the original)

Petitioners filed a Motion for Reconsideration, which was denied,[22] causing them to file the instant Petition for Review. Petitioners now insist that the principle of res judicata is applicable only to the portion of CA-G.R. SP No. 54099 which declared illegal eleven of the twelve- months suspension meted on them, but is inapplicable to the declaration by the NLRC that the remaining one-month suspension is valid. The conclusion is based on their allegation that the one-month suspension is the issue, subject matter, and cause of action in CA-G.R. SP No. 54850 but which was not determined in CA-G.R. SP No. 54099, the latter having been rendered on a different issue, subject matter and cause of action.

Paragraph (b), Sec. 47, Rule 39 of the Rules of Court establishes the distinctive principles governing res judicata,[23] to wit:

> Sec. 47. Effect of judgments or final orders.–The effect of a judgment or a final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:
>
> x x x
>
> (b) In other cases, the judgment or final 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; x x x
>
> Res judicata applies when there exists in two cases identity of parties, subject matter, and cause of action. Thus, the judgment in the first case is final as to the claim or demand in controversy, between the parties and those privy with them, not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered for that purpose and of all matters that could have been adjudged in that case.[24]

For the preclusive effect of res judicata to be enforced, the following requisites must obtain:

(1) The former judgment or order must be final;

(2) It must be a judgment or order on the merits, that is, it was rendered after a consideration of the evidence or stipulations submitted by the parties at the trial of the case;

(3) It must have been rendered by a court having jurisdiction over the subject matter and the parties; and

(4) There must be, between the first and second actions, identity of parties, of subject matter and of cause of action. This requisite is satisfied if the two actions are substantially between the same parties.[25]

On core examination, the first three elements of res judicata are present. The Decision of the Court of Appeals in CA-G.R. SP No. 54099 is final and executory.[26] It was rendered on the merits[27] and the Court of Appeals had jurisdiction over the case,[28] as even plaintiffs sought the same by filing their own Petition for Certiorari with said Court.

Now, is the fourth requisite present—that of uniformity of parties, subject matter and cause of action? We hold in the affirmative. Obviously the parties involved are the same; the subject matter and cause of action in CA-G.R. SP No. 54099 and CA-G.R. SP No. 54850 are the same despite an expected difference in the manner by which the opposing parties presented their grounds for certiorari.

A subject matter is the item with respect to which the controversy has arisen, or concerning which the wrong has been done, and it is ordinarily the right, the thing, or the contract under dispute.[29] On the other hand, a cause of action is an act or omission of one party in violation of the legal right of the other.[30] The sole and common objective of petitioners and respondents in filing their respective original actions for certiorari and in impleading therein the NLRC as public respondent was to secure the reversal of the NLRC's Decision. By definition, therefore, the subject matter and the cause of action of

the two original actions is the assailed Decision promulgated by the NLRC.

Moreover, we have held in Stilanopolus vs. City of Legaspi[31] that causes of action are identical when there is an identity in the facts essential to the maintenance of the two actions, or where the same evidence will sustain both actions. The Court of Appeals aptly observed that the reliefs sought in petitioners' Consolidated Comment/ Opposition in CA-G.R. SP No. 54099 are similar to those prayed for in their Petition docketed as CA-G.R. SP No. 54850.[32] Thus, the singularity of the relief sought by herein petitioners and the identity of factual origins of the two cases ascertain the identity of the causes of action in the two cases.

In fact, res judicata has been applied to cases far more diverse than the hair-splitting distinctions raised by petitioners concerning the instant case. For instance, a case for rendering an accounting of funds was held to preclude a subsequent case for the partition of the same funds and their fruits;[33] a judgment in an action for recovery of damages for property lost was an effective bar to any other action between the same parties for the recovery of the same property or its value.[34] All the more should res judicata be applied herein, where both cases emanated from, and contest the judiciousness of, a single decision a quo.

We note that the Petition, in its prayer, entreats this Court to first set aside the Decision of the Special Eleventh Division and, thereafter, affirm the Decision of the Labor Arbiter, which held them free of any liability from their actions.[35]

However, implicit in petitioners' prayer is a request for this Court to annul or set aside the final and executory Decision of the Court of Appeals in CA-G.R. SP No. 54099, since they seek a modification of the NLRC Decision which that court affirmed.

The 1997 Rules of Civil Procedure provides only two remedies for aggrieved parties to annul a final and executory judgment. The first is by filing a verified petition for relief from judgment under Rule 38 on the ground of fraud, accident, mistake, or excusable negligence within sixty days after the petitioner learns of the judgment to be set aside,

and not more than six months after such judgment was entered.[36] The other remedy is for a party to file a verified petition for annulment of judgment under Rule 47, on the ground of extrinsic fraud and lack of jurisdiction, within four years from its discovery.[37] However, in addition to these, jurisprudence has likewise recognized an additional relief through a direct action, as certiorari, or by a collateral attack against a judgment that is void on its face.[38]

Petitioners have not alleged that the judgment in CA-G.R. SP No. 54099 was entered against them through fraud, accident, mistake, or excusable negligence; not to mention that the prescriptive period for filing a petition for relief had lapsed. Petitioners do not allege any extrinsic or collateral fraud taken against them in the rendition of the decision; nor do they claim the lack of jurisdiction of the NLRC to make its Decision, or the lack of jurisdiction of the Court of Appeals to affirm the same. Moreover, the Decision in CA-G.R. SP No. 54099 is not patently void. In fact, petitioners have recognized the final and executory nature thereof[39] and even admitted a partial res judicata effect of said judgment.[40] Consequently, there is neither statutory nor jurisprudential basis for this Court to annul the Decision of the Court of Appeals in CA-G.R. SP No. 54099.

As a last-ditch effort, petitioners ask this Court to disregard the rigid application of res judicata to avoid the "sacrifice of justice to technicality."

In addressing this supplication, this Court must ask itself, were petitioners denied a fair hearing so as to merit an exception to the finality of judgments? A review of the proceedings a quo shows that petitioners had been given their day in court. Petitioners filed a complaint against respondents. They also elevated the adverse decision of the NLRC in their own Petition for Certiorari and filed a lengthy Consolidated Comment/Opposition to PAL's Petition for Certiorari, buttressed with factual and legal arguments not only to defeat PAL's allegations but also to substantiate their own bid to obtain the reinstatement of the Decision of the Labor Arbiter. The Special Eleventh Division of the Court of Appeals rendered its decision only after a review of the submissions of petitioners.

Had there been a due process violation, it may have been possible for this Court to set aside even a final and executory judgment. However, we do not see any overriding reason not to abide by the well-entrenched doctrine of res judicata. Indeed it has been well said that this maxim is more than a mere rule of law, more even than an important principle of public policy, and that it is a fundamental concept in the organization of every jural society,[41] for not only does it ward off endless litigation, it ensures the stability of judgment, and guards against inconsistent decisions on the same set of facts.[42] It also takes into consideration the ideal that a party should not be vexed twice regarding the same cause.[43]

When an issue of fact or law is actually litigated and determined by a valid judgment, that determination is conclusive in a subsequent action to the parties thereto. What petitioners should have done was to appeal the adverse decision in CA-G.R. SP No. 54099, failing which, petitioners must contend and content themselves with the finality of judicial pronouncements.

WHEREFORE, premises considered, the assailed judgment and resolution of the Court of Appeals dismissing the petition are hereby **AFFIRMED**.

No pronouncement as to costs.

SO ORDERED.

Puno, *J.*, *(Chairman)*, Austria-Martinez, and Callejo, Sr., *JJ.*, concur.
Chico-Nazario, *J.*, no part.

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[1] By the Special Eleventh Division in CA-G.R. SP No. 54850, promulgated 29 June 2001, penned by Justice Presbiterio J. Velasco, Jr. and concurred in by Justices Bienvenido L. Reyes and Sergio L. Pestaño ; Rollo, pp. 125-135.
[2] Labor Arbiter's Decision, Id. at 100-104; NLRC Decision, Id. at 112-121; Court of Appeals Decision, Id. at 126-129, 132; Court of Appeals decision thru its Special Eleventh Division in CA-G.R. SP No. 54850, Rollo, pp. 49-52.
[3] Petition for Certiorari, id. at 15, confirmed by the courts a quo;
[4] Union Secretary, per Annex "F" of the instant Petition, id. at p. 66.

[5] Annex "L," id. at 80-85.
[6] Annex "N," id. at 87-88.
[7] Labor Arbiter's Decision, id. at 108-109.
[8] By the Third Division promulgated 19 May 1999, penned by Commissioner Ireneo B. Bernardo concurred in by Commissioner Lourdes C. Javier and Commissioner Tito F. Genilo, id. at 110-121.
[9] Id. at 107-121.
[10] Id. at 122-123.
[11] Annex "1" of the Comment, id. at 161.
[12] Annex "2" of the Comment, id. at 424-442.
[13] Id. at 443-465.
[14] Time period as stated in instant Petition, id. at 22.
[15] Rollo, pp. 125-134.
[16] Per Entry of Judgment, id. at 135.
[17] In a Resolution of Seventeenth Division of the Court of Appeals by Justice Presbiterio J. Velasco, Jr., concurred in by Justice Bernardo Ll. Salas and Justice Juan Q. Enriquez, Jr., id. at 137-138.
[18] Filed 23 October 2000, per Decision in CA-G.R. SP No. 54850 promulgated 29 January 200, Rollo, p. 53.
[19] Filed 23 November 2000, per Decision, supra.
[20] Rollo, pp. 48-57.
[21] Id. at 55.
[22] Through a Resolution dated 28 January 2002 by the Court of Appeals' Eighth Division, penned by Justice Sergio L. Pestaño and concurred by Justices Conchita Carpio Morales and Martin S. Villarama.
[23] Paragraph (c) of the same rule, as cited by the Court of Appeals and respondent PAL relates to res judicata as collateral estoppel which operates to preclude the relitigation of issues (unlike res judicata proper, which bars the relitigation of claims), and applies only when the fourth element of res judicata, i.e., identity of cause of action, is absent.
[24] Feria & Noche, Civil Procedure Annotated, 2001 ed., Vol. II, p. 134.
[25] Ibid.
[26] Supra note 16.
[27] See Decision by the Thirteenth Division promulgated on 12 November 1999, supra note 15.
[28] See St. Martin Funeral Homes vs. NLRC, 356 Phil. 811 (1998).
[29] Yusingco vs. Ong Hing Lian, 149 Phil. 688, 705.
[30] Section 2, Rule 2, 1997 Rules of Civil Procedure.
[31] G.R. No. 113913, 12 October 1999, 316 SCRA 523, 541.
[32] Supra note 20, pp. 55-56.
[33] Chua Tan, et al. vs. Del Rosario, No. L-3590, 27 October 1932, cited in Feria & Noate, supra note 13, p. 129.
[34] Rubiso vs. Rivera, et al., No. L-15260, 18 August, 1920, cited in Feria, supra note 13, pp. 129-130.
[35] Rollo, p. 42.
[36] Secs. 1 and 3, Rule 38, 1997 Rules of Civil Procedure.
[37] Secs. 2, 3 and 4, Rule 47, ibid.

[38] Arcelona vs. CA, No. L-29090, August 17, 1976, 72 SCRA 327, 343; See also Bobis vs. CA G.R. No. 113796, 14 December 2000, 348 SCRA 23, citing vs. People's Homesity and Housing Corp. No. L-29080, 17 August 1976, 72 SCRA 326, 343-344, in turn citing Aring vs. Original, 6 SCRA 1021, 1025 (1962); Velasco vs. Velasco, 2 SCRA 736 (1961); 46 Am. Jur. 913; U.S. vs. Throckmorton, 25 L. ed. 93, 95.
[39] Petition for Review, Rollo, p. 23.
[40] Id. at 26-32.
[41] Peñalosa vs. Tuason, 22 Phil 303, 310 (1912).
[42] See Am. Jur. 2d Judgments § 515 (1994).
[43] Yusingco vs. Ong Hing Liam, supra note 29, at 703.