

## FIRST DIVISION

[ G.R. No. 178501, January 11, 2016 ]

**NILO S. RODRIGUEZ, FRANCISCO T. ALISANGCO, BENJAMIN T. ANG, VICENTE P. ANG, SILVESTRE D. ARROYO, RUDERICO C. BAQUIRAN, WILFREDO S. CRUZ, EDMUNDO M. DELOS REYES, JR., VIRGILIO V. ECARMA, ISMAEL F. GALISIM, TITO F. GARCIA, LIBERATO D. GUTIZA, GLADYS L. JADIE, LUISITO M. JOSE, PATERNO C. LABUGA, JR. NOEL Y. LASTIMOSO, DANILO C. MATIAS, BEN T. MATURAN, VIRGILIO N. OCHARAN, GABRIEL P. PIAMONTE, JR., ARTURO A. SABADO, MANUEL P. SANCHEZ, MARGOT A. CORPUS AS THE SURVIVING SPOUSE OF THE DECEASED ARNOLD S. CORPUS, AND ESTHER VICTORIA A. ALCAÑESES AS THE SURVIVING SPOUSE OF THE DECEASED EFREN S. ALCAÑESES, PETITIONERS, VS. PHILIPPINE AIRLINES, INC., AND NATIONAL LABOR RELATIONS COMMISSION, RESPONDENTS.**

[G.R. NO. 178510]

**PHILIPPINE AIRLINES, INC., PETITIONER, VS. NILO S. RODRIGUEZ, FRANCISCO T. ALISANGCO, BENJAMIN T. ANG, VICENTE P. ANG, SILVESTRE D. ARROYO, RUDERICO C. BAQUIRAN, ARNOLD S. CORPUS, WILFREDO S. CRUZ, EDMUNDO M. DELOS REYES, JR., VIRGILIO V. ECARMA, ISMAEL F. GALISIM, TITO F. GARCIA, LIBERATO D. GUTIZA, GLADYS L. JADIE, LUISITO M. JOSE, PATERNO C. LABUGA, JR., NOEL Y. LASTIMOSO, DANILO C. MATIAS, BEN T. MATURAN, VIRGILIO N. OCHARAN, GABRIEL M. PIAMONTE, JR., RODOLFO O. POE, JR., ARTURO A. SABADO, MANUEL P. SANCHEZ, and ESTHER VICTORIA A. ALCAÑESES, AS THE SOLE HEIR OF THE DECEASED EFREN S. ALCAÑESES, RESPONDENTS.**

### D E C I S I O N

**LEONARDO-DE CASTRO, J.:**

Before the Court are two consolidated Petitions for Review on *Certiorari* under Rule 45 of the Revised Rules of Court assailing the Decision<sup>[1]</sup> dated November 30, 2006 and Resolution dated June 8, 2007 of the Court of Appeals in CA-G.R. SP No. 71190.

The petitioners in G.R. No. 178501 are 24 former pilots of Philippine Airlines, Inc. (PAL), namely, Nilo S. Rodriguez (Rodriguez), Francisco T. Alisangco (Alisangco), Benjamin T. Ang, Vicente P. Ang, Silvestre D. Arroyo (Arroyo), Ruderico C. Baquiran (Baquiran), Wilfredo S. Cruz, Edmundo M. Delos Reyes, Jr. (Delos Reyes), Virgilio V. Ecarma (Ecarma), Ismael F. Galisim (Galisim), Tito F. Garcia (Garcia), Liberato D. Gutiza (Gutiza), Gladys L. Jadie (Jadie), Luisito M. Jose (Jose), Paterno C. Labuga,

Jr. (Labuga), Noel Y. Lastimoso (Lastimoso), Danilo C. Matias (Matias), Ben T. Maturan (Maturan), Virgilio N. Ocharan (Ocharan), Gabriel M. Piamonte, Jr. (Piamonte), Arturo A. Sabado (Sabado), Manuel P. Sanchez (Sanchez), Margot A. Corpus as the surviving spouse of the deceased Arnold S. Corpus (Corpus), and Esther Victoria A. Alcañeses as the surviving spouse of the deceased Efren S. Alcañeses (Alcañeses), hereinafter collectively referred to as Rodriguez, *et al.*, deemed by PAL to have lost their employment status for taking part in the illegal strike in June 1998.

The petitioner in G.R. No. 178510 is PAL, 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. PAL named Rodriguez, *et al.* and Rodolfo O. Poe (Poe) as respondents in its Petition.

In its assailed Decision, the Court of Appeals: (1) reversed the Decision dated November 6, 2001 of the National Labor Relations Commission (NLRC) in NLRC NCR CA No. 027348-01 which declared the loss of employment of Rodriguez, *et al.* (except for Jodie) to be in accordance with law; and (2) reinstated the Decision dated December 11, 2000 of the Labor Arbiter in NLRC NCR Case No. 00-06-06290-99 which held PAL liable for the illegal dismissal of Rodriguez, *et al.* but with the modifications directing PAL to pay the pilots their separation pay in lieu of reinstatement and deleting the awards for moral and exemplary damages and attorney's fees.

Rodriguez, *et al.*, pray that the Court partially reverse the judgment of the Court of Appeals by ordering their reinstatement with backwages and restoring the awards for moral and exemplary damages and attorney's fees; while PAL petitions that the same judgment be completely annulled and set aside.

The relevant facts of the case are as follows:

On December 9, 1997, the Airline Pilots Association of the Philippines (ALPAP) filed with the National Conciliation and Mediation Board (NCMB) a Notice of Strike, docketed as NCMB NCR NS 12-514-97 (Strike Case), on the grounds of unfair labor practice and union-busting by PAL.<sup>[2]</sup>

By virtue of the authority vested upon him under Article 263(g)<sup>[3]</sup> of the Labor Code of the Philippines (Labor Code), the Secretary<sup>[4]</sup> of the Department of Labor and Employment (DOLE) assumed jurisdiction over the Strike Case, and issued an Order<sup>[5]</sup> on December 23, 1997 prohibiting all actual and impending strikes and lockouts. On May 25, 1998, the DOLE Secretary issued another Order<sup>[6]</sup> reiterating the prohibition against strikes and lockouts.

Despite the abovementioned Orders of the DOLE Secretary, ALPAP filed a second Notice of Strike on June 5, 1998 and staged a strike on the same day at around 5:30 in the afternoon. The DOLE Secretary immediately called PAL and ALPAP for conciliation conferences on June 6 and 7, 1998 to amicably settle the dispute between them.<sup>[7]</sup> After his efforts failed, the DOLE Secretary issued an Order<sup>[8]</sup> on June 7, 1998 (Return-to-Work Order) with the following directive:

WHEREFORE, FOEGOING PREMISES CONSIDERED, all striking officers and members of ALPAP are hereby ordered to return to work within twenty-four (24) hours from receipt of this Order and for PAL management to accept them under the same terms and conditions of employment prior to the strike.

Our directive to both parties to cease and desist from committing any and all acts that will exacerbate the situation is hereby reiterated.<sup>[9]</sup>

On June 26, 1998, the members of ALPAP reported for work but PAL did not accept them on the ground that the 24-hour period for the strikers to return set by the DOLE Secretary in his Return-to-Work Order had already lapsed, resulting in the forfeiture of their employment.

Consequently, ALPAP filed with the NLRC on June 29, 1998 a Complaint<sup>[10]</sup> for illegal lockout against PAL, docketed as NLRC NCR Case No. 00-06-05253-98 (Illegal Lockout Case). ALPAP averred that after its counsel received the Return-to-Work Order on June 25, 1998, its members reported back to work on June 26, 1998 in compliance with the 24-hour period set in the said Order. ALPAP prayed that PAL be ordered to unconditionally accept its members back to work and pay the salaries and other benefits due them. On August 21, 1998, the Acting Executive Labor Arbiter ordered the consolidation of the Illegal Lockout Case with the Strike Case pending before the DOLE Secretary.<sup>[11]</sup>

The DOLE Secretary<sup>[12]</sup> issued a Resolution<sup>[13]</sup> on June 1, 1999 in the consolidated Strike and Illegal Lockout Cases, with a dispositive portion that reads:

**WHEREFORE, PREMISES CONSIDERED,** this Office hereby:

x x x x

b. DECLARES the strike conducted by ALPAP on June 5, 1998 and thereafter illegal for being procedurally infirm and in open defiance of the return-to-work order of June 7, 1998 and consequently, the strikers are deemed to have lost their employment status; and

c. DISMISSES the complaint for illegal lockout for lack of merit.<sup>[14]</sup>

ALPAP filed a Motion for Reconsideration but it was denied by the DOLE Secretary in a Resolution dated July 23, 1999.<sup>[15]</sup>

ALPAP assailed the foregoing Resolutions dated June 1, 1999 and July 23, 1999 of the DOLE Secretary in the consolidated Strike and Illegal Lockout Cases in a Petition for *Certiorari* under Rule 65 of the Revised Rules of Court filed before the Court of Appeals and docketed as CA-G.R. SP No. 54880. The appellate court dismissed said Petition in a Decision<sup>[16]</sup> dated August 22, 2001. ALPAP elevated the case to this Court by filing a Petition for *Certiorari*, bearing the title "*Airline Pilots Association of the Philippines v. Philippine Airlines, Inc.*" docketed as G.R. No. 152306 (1<sup>st</sup> ALPAP

case). The Court dismissed the Petition of ALPAP in a minute Resolution<sup>[17]</sup> dated April 10, 2002 for failure of ALPAP to show grave abuse of discretion on the part of the appellate court. Said Resolution dismissing the 1<sup>st</sup> ALPAP case became final and executory on August 29, 2002.<sup>[18]</sup>

Meanwhile, 32 ALPAP members, consisting of Rodriguez, *et al*, Poe, Nino B. Dela Cruz (Dela Cruz), Baltazar B. Musong (Musong), Elmer F. Peña (Peña), Cesar G. Cruz, Antonio O. Noble, Jr. (Noble), Nicomen H. Versoza, Jr. (Versoza), and Ryan Jose C. Hinayon (Hinayon), hereinafter collectively referred to as complainants - with varying ranks of captain, first officer, and second officer<sup>[19]</sup> - filed with the NLRC on June 7, 1999 a Complaint<sup>[20]</sup> for illegal dismissal against PAL, docketed as NLRC-NCR Case No. 00--06-06290-99 (Illegal Dismissal Case). The Complaint stated three causes of action, to wit:

### **CAUSES OF ACTION**

A. **ILLEGAL DISMISSAL** in that [PAL] terminated the employment of the above-named complainants on 7 June 1998 (except for complainant Liberato D. Gutiza, who was dismissed on 6 June 1998) for their alleged participation in a strike staged by ALPAP at the Philippine Airlines, Inc. commencing on 5 June 1998 when in truth and in fact:

(i) Complainants EFREN S. ALCÁÑESES, VICENTE P. ANG, BENJAMIN T. ANG, SILVESTRE D. ARROYO, LIBERATO D. GUTIZA, LUISITO M. JOSE, DANILO C. MATIAS, GABRIEL M. PIAMONTE, JR., MANUEL P. SANCHEZ, and NICOMEN H. VERSOZA, JR. **actually reported for work and duly discharged all their duties and responsibilities as pilots** by flying their assigned equipment and completing their respective flights to their specified destinations, as scheduled;

(ii) Complainants GLADYS L. JADIE and BEN T. MATURAN, having been **on duly approved and scheduled medical leaves**, were authorized and permitted to absent themselves from work on 5 June 1998 up to the termination of their employment on 7 June 1998, complainant JADIE being then on maternity leave and grounded as she was already in her ninth month of pregnancy, while complainant MATURAN was recuperating from a laparotomy and similarly medically grounded until 15 June 1998;

(iii) Complainants EDMUNDO M. DELOS REYES, JR., BALTAZAR B. MUSONG, ANTONIO O. NOBLE, JR., ELMER F. Peña, and ARTURO A. SABADO were not required to work and were legally excused from work on 5 June 1998 up to the termination of their employment on 7 June 1998 as they were on their annual vacation leaves as approved and pre-scheduled by [PAL] as early as December 1997 conformably with Company policy and practice on vacation leave

scheduling;

(iv) Complainants NILO S. RODRIGUEZ, RUDERICO C. BAQUIRAN, ARNOLD S. CORPUS, CESAR G. CRUZ, WILFREDO S. CRUZ, NINO B. DELA CRUZ, VIRGILIO V. ECARMA, ISMAEL F. GALISIM, TITO F. GARCIA, RYAN JOSE C. HINAYON, PATERNO C. LABUGA, JR., NOEL Y. LASTIMOSO, RODOLFO O. POE and VIRGILIO N. OCHARAN were likewise not required to work and were legally excused from work on 5 June 1998 up to the termination of their employment on 7 June 1998 as they were **off duty and did not have any scheduled flights** based on the June 1998 monthly flights schedules issued to them by [PAL] in May 1998; and

(v) Complainant FRANCISCO T. ALISANGCO was **servicing a seven-day suspension** and, thus, not required to work from 4 June 1998 to 10 June 1998 under Memorandum of Suspension, dated 5 May 1998.

negating that there was any stoppage of work or refusal to return to work on the part of the above-named complainants, as was made the basis of the termination of their employment by [PAL] on 7 June 1998 (6 June 1998 for complainant Gutiza), due solely to their union affiliation and membership.

FURTHER, [PAL] denied the above-named complainants due process in the termination of their employment in that it failed to notify them in writing of the charges against them, did not give them any opportunity to be heard and to explain their side at an administrative investigation, and to date, has not served them with any formal notice of the termination of their employment and the cause or causes therefor.

THUS, [PAL] summarily effected the dismissal of the above-named complainants without just or lawful cause.

## **B. NON-PAYMENT OF SALARIES AND OTHER BENEFITS**

1. Basic or guaranteed pay
2. Productivity pay
3. Transportation allowance
4. Rice subsidy
5. Retirement Fund
6. Pilots Occupational Disability Fund
7. Vacation leave
8. Sick leave
9. Unutilized days off
10. Trip leave
11. Trip passes

## **C. DAMAGES**

1. Actual Damages
2. Moral Damages