

SECOND DIVISION

[G.R. No. 148415, July 14, 2008]

**RICARDO G. PALOMA, PETITIONER, VS. PHILIPPINE AIRLINES,
INC. AND THE NATIONAL LABOR RELATIONS COMMISSION,
RESPONDENTS.**

G.R. NO. 156764

**PHILIPPINE AIRLINES, INC., PETITIONER, VS. RICARDO G.
PALOMA, RESPONDENT.**

D E C I S I O N

VELASCO JR., J.:

The Case

Before us are these two consolidated petitions for review under Rule 45 separately interposed by Ricardo G. Paloma and Philippine Airlines, Inc. (PAL) to nullify and set aside the Amended Decision^[1] dated May 31, 2001 of the Court of Appeals (CA) in CA-G.R. SP No. 56429, as effectively reiterated in its Resolution^[2] of January 14, 2003.

The Facts

Paloma worked with PAL from September 1957, rising from the ranks to retire, after 35 years of continuous service, as senior vice president for finance. In March 1992, or some nine (9) months before Paloma retired on November 30, 1992, PAL was privatized.

By way of post-employment benefits, PAL paid Paloma the total amount of PhP 5,163,325.64 which represented his separation/retirement gratuity and accrued vacation leave pay. For the benefits thus received, Paloma signed a document denominated *Release and Quitclaim*^[3] but inscribed the following reservation therein: "Without prejudice to my claim for further leave benefits embodied in my aide memoire transmitted to Mr. Roberto Anonas covered by my 27 Nov. 1992 letter x x x."

The leave benefits Paloma claimed being entitled to refer to his 450-day accrued sick leave credits which PAL allegedly only paid the equivalent of 18 days. He anchored his entitlement on Executive Order No. (EO) 1077^[4] dated January 9, 1986, and his having accumulated a certain number of days of sick leave credits, as acknowledged in a letter of Alvia R. Leaño, then an administrative assistant in PAL. Leaño's letter dated November 12, 1992 pertinently reads:

At your request, we are pleased to confirm herewith the balance of your sick leave credits as they appear in our records: 230 days.

According to our existing policy, an employee is entitled to accumulate sick leave with pay only up to a maximum of 230 days.

Had there been no ceiling as mandated by Company policy, your sick leave credits would have totaled 450 days to date.^[5]

Answering Paloma's written demands for conversion to cash of his accrued sick leave credits, PAL asserted having paid all of Paloma's commutable sick leave credits due him pursuant to company policy made applicable to PAL officers starting 1990.

The company leave policy adverted to grants PAL's regular ground personnel a graduated sick leave benefits, those having rendered at least 25 years of service being entitled to 20 days of sick leave for every year of service. An employee, under the policy, may accumulate sick leaves with pay up to **230 days**. Subject to defined qualifications, sick leave credits in excess of 230 days shall be commutable to cash at the employee's option and shall be paid in lump sum on or before **May 31st** of the following year they were earned.^[6] Per PAL's records, Paloma appears to have, for the period from 1990 to 1992, commuted 58 days of his sick leave credits, broken down as follows: 20 days each in 1990 and 1991 and 18 days in 1992.

Subsequently, Paloma filed before the Arbitration Branch of the National Labor Relations Commission (NLRC) a Complaint^[7] for *Commutation of Accrued Sick Leaves Totaling 392 days*. In the complaint, docketed as NLRC-NCR-Case No. 00-08-05792-94, Paloma alleged having accrued sick leave credits of **450 days** commutable upon his retirement pursuant to EO 1077 which allows retiring government employees to commute, without limit, all his accrued vacation and sick leave credits. And of the 450-day credit, Paloma added, he had commuted only 58 days, leaving him a **balance of 392 days** of accrued sick leave credits for commutation.

Ruling of the Labor Arbiter

Issues having been joined with the filing by the parties of their respective position papers,^[8] the labor arbiter rendered on June 30, 1995 a Decision^[9] dispositively reading:

WHEREFORE, premises considered, respondent PHILIPPINE AIRLINE[S], INC. is hereby ordered to pay within ten (10) days from receipt hereof herein complainant Ricardo G. Paloma, the sum of Six Hundred Seventy Five Thousand Pesos (P675,000.00) representing his one Hundred sixty two days [162] accumulated sick leave credits, plus ten (10%) percent attorney's fees of P67,500.00, or a total sum of P742,500.00.

SO ORDERED.

The labor arbiter held that PAL is not covered by the civil service system and, accordingly, its employees, like Paloma, cannot avail themselves of the beneficent provision of EO 1077. This executive issuance, per the labor arbiter's decision, applies only to government officers and employees covered by the civil service,

exclusive of the members of the judiciary whose leave and retirement system is covered by a special law.

However, the labor arbiter ruled that Paloma is entitled to a commutation of his alternative claim for 202 accrued sick leave credits less 40 days for 1990 and 1991. Thus, the grant of commutation for 162 accrued leave credits.

Both parties appealed^[10] the decision of the labor arbiter to the NLRC.

**Ruling of the NLRC in NLRC NCR CA No. 009652-95
(NLRC-NCR-Case No. 00-08-05792-94)**

On November 26, 1997, the First Division of the NLRC rendered a Decision affirming that of the labor arbiter, thus:

WHEREFORE, as recommended, both appeals are DISMISSED. The decision of Labor Arbiter Felipe T. Garduque II dated June 30, 1995 is AFFIRMED.

SO ORDERED.^[11]

Both parties moved for reconsideration. In its Resolution of November 10, 1999, the NLRC, finding Paloma to have, upon his retirement, commutable accumulated sick leave credits of 230 days, modified its earlier decision, disposing as follows:

In view of all the foregoing, our decision dated November 26, 1997, be modified by increasing the sick leave benefits of complainant to be commuted to cash from 162 days to 230 days.

SO ORDERED.^[12]

From the above modificatory resolution of the NLRC, PAL went to the CA on a petition for certiorari under Rule 65, the recourse docketed as CA-G.R. SP No. 56429.

Ruling of the CA in its April 28, 2000 Decision

By a Decision dated April 28, 2000, the CA found for PAL, thus:

WHEREFORE, the petition is granted. Public respondent's November 10, 1999 Resolution is set aside. And the complaint of Ricardo Paloma is hereby DISMISSED. Without costs.

SO ORDERED.^[13]

In time, Paloma sought reconsideration.^[14]

The May 31, 2001 Amended Decision

On May 31, 2001, the CA issued the assailed Amended Decision reversing its April 28, 2000 Decision. The *fallo* of the Amended Decision reads:

WHEREFORE, premises considered, our Judgment, dated 28 April 2000 is hereby vacated and, set aside, and another one entered reinstating the Resolution, dated 10 November 1999, issued by the public respondent National Labor Relations Commission in NLRC NCR Case No. 00-08-05792-94 [NLRC NCR CA No. 009652-95], entitled Ricardo G. Paloma v. Philippine Airlines, Incorporated, with the only modification that the total sums granted by Labor Arbiter Felipe T. Garduque II (P742,500.00, inclusive of the ten percent (10%) attorney's fees), as affirmed by public respondent National Labor Relations Commission, First Division, in said NLRC Case No. 00-08-05792-94, shall earn legal interest from the date of the institution of the complaint until fully paid/discharged. (Art. 2212, New Civil Code).

SO ORDERED.^[15]

Justifying its amendatory action, the CA stated that EO 1077 applies to PAL and necessarily to Paloma on the following rationale: Section 2(1) of Article IX(B) of the 1987 Constitution applies prospectively and, thus, the expressed limitation therein on the applicability of the civil service law only to government-owned and controlled corporations (GOCCs) with original charters does not preclude the applicability of EO 1077 to PAL and its then employees. This conclusion, the CA added, becomes all the more pressing considering that PAL, at the time of the issuance of EO 1077, was still a GOCC and that Paloma had already 29 years of service at that time. The appellate court also stated that since PAL had then no existing retirement program, the provisions of EO 1077 shall serve as a retirement program for Paloma who had meanwhile acquired vested rights under the EO pursuant to Arts. 100^[16] and 287^[17] of the Labor Code.

Significantly, despite affirmatively positing the applicability of EO 1077, the Amended Decision still deferred to PAL's existing policy on the 230-day limit for accrued sick leave with pay that may be credited to its employees. Incongruously, while the CA reinstated the November 10, 1999 Resolution of the NLRC, it decreed the implementation of the labor arbiter's Decision dated June 30, 1995. As may be recalled, the NLRC, in its November 10, 1999 Resolution, allowed a 230-day sick leave commutation, up from the 162 days granted under the June 30, 1995 Decision of the labor arbiter.

Paloma immediately appealed the CA's Amended Decision via a Petition for Review on Certiorari under Rule 45, docketed as **G.R. No. 148415**. On the other hand, PAL first sought reconsideration of the Amended Decision, coming to us after the CA, per its January 14, 2003 Resolution, denied the desired reconsideration. In net effect then, PAL's Petition for Review on Certiorari, docketed as **G.R. No. 156764**, assails both the Amended Decision and Resolution of the CA.

The Issues

In **G.R. No. 148415**, Paloma raises the sole issue of:

WHETHER OR NOT THE [CA], IN HOLDING THAT E.O. NO. 1077 IS APPLICABLE TO PETITIONER AND YET APPLYING COMPANY POLICY BY AWARDING THE CASH EQUIVALENT OF ONLY 162 DAYS SICK LEAVE CREDITS INSTEAD OF THE 450 DAYS SICK LEAVE CREDITS PETITIONER

IS ENTITLED TO UNDER E.O. NO. 1077, DECIDED A QUESTION OF SUBSTANCE IN A MANNER CONTRARY TO LAW AND APPLICABLE JURISPRUDENCE.^[18]

In **G.R. No. 156764**, PAL raises the following issues for our consideration:

1. May an employee of a non-government corporation [invoke EO] 1077 which the then President Ferdinand E. Marcos issued on January 9, 1986, solely for the benefit of government officers and employees covered by the civil service?
2. Can a judicial body modify or alter a company policy by ordering the commutation of sick leave credits which, under company policy is non-commutable?^[19]

The issues submitted boil down to the question of whether or not EO 1077, before PAL's privatization, applies to its employees, and corollarily, whether or not Paloma is entitled to a commutation of his accrued sick leave credits. Subsumed to the main issue because EO 1077 applies only to government employees subject to civil service law is the question of whether or not PAL--which, as early as 1960 until its privatization, had been considered as a government-controlled corporation--is covered by and subject to the limitations peculiar under the civil service system.

There can be no quibbling, as a preliminary consideration, about PAL having been incorporated as a private corporation whose controlling stocks were later acquired by the GSIS, which is wholly owned by the government. Through the years before GSIS divested itself of its controlling interests over the airline, PAL was considered a government-controlled corporation, as we said as much in *Phil. Air Lines Employees' Assn. v. Phil. Air Lines, Inc.*,^[20] a case commenced in August 1958 and finally resolved by the Court in 1964. The late Blas Ople, former Labor Secretary and a member of the 1986 Constitutional Commission, described PAL and other like entities spun off from the GSIS as "second generation corporations functioning as private subsidiaries."^[21] Before the coming into force of the 1973 Constitution, a subsidiary of a wholly government-owned corporation or a government corporation with original charter was covered by the Labor Code. Following the ratification of the 1973 Constitution, these subsidiaries theoretically came within the pale of the civil service on the strength of this provision: "[T]he civil service embraces every branch, agency, subdivision and instrumentality of the Government, including every [GOCC] x x x."^[22] Then came the 1987 Constitution which contextually delimited the coverage of the civil service only to a GOCC "with original charter."^[23]

The Court's Ruling

Considering the applicable law and jurisprudence in the light of the undisputed factual milieu of the instant case, the setting aside of the assailed amended decision and resolution of the CA is indicated.

Core Issue: Applicability of EO 1077

Insofar as relevant, EO 1077 dated January 9, 1986, entitled *Revising the*