

FIRST DIVISION

[G.R. No. 124110, April 20, 2001]

**UNITED AIRLINES, INC., PETITIONER, VS. COURT OF APPEALS,
ANICETO FONTANILLA, IN HIS PERSONAL CAPACITY AND IN
BEHALF OF HIS MINOR SON MYCHAL ANDREW FONTANILLA
RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

On March 1, 1989, private respondent Aniceto Fontanilla purchased from petitioner United Airlines, through the Philippine Travel Bureau in Manila, three (3) "Visit the U.S.A." tickets for himself, his wife and his minor son Mychal for the following routes:

(a) San Francisco to Washington (15 April 1989);

(b) Washington to Chicago (25 April 1989);

(c) Chicago to Los Angeles (29 April 1989);

(d) Los Angeles to San Francisco (01 May 1989 for petitioner's wife and 05 May 1989 for petitioner and his son).^[1] All flights had been confirmed previously by United Airlines.^[2] The Fontanillas proceeded to the United States as planned, where they used the first coupon from San Francisco to Washington. On April 24, 1989, Aniceto Fontanilla bought two (2) additional coupons each for himself, his wife and his son from petitioner at its office in Washington Dulles Airport. After paying the penalty for rewriting their tickets, the Fontanillas were issued tickets with corresponding boarding passes with the words "CHECK-IN REQUIRED," for United Airlines Flight No. 1108, set to leave from Los Angeles to San Francisco at 10:30 a.m. on May 5, 1989.^[3] The cause of the non-boarding of the Fontanillas on United Airlines Flight No. 1108 makes up the bone of contention of this controversy.

Private respondents' version is as follows:

Aniceto Fontanilla and his son Mychal claim that on May 5, 1989, upon their arrival at the Los Angeles Airport for their flight, they proceeded to United Airlines counter where they were attended by an employee wearing a nameplate bearing the name "LINDA." Linda examined their tickets, punched something into her computer and then told them that boarding would be in fifteen minutes.^[4] When the flight was called, the Fontanillas proceeded to the plane. To their surprise, the stewardess at

the gate did not allow them to board the plane, as they had no assigned seat numbers. They were then directed to go back to the "check-in" counter where Linda subsequently informed them that the flight had been overbooked and asked them to wait.^[5] The Fontanillas tried to explain to Linda the special circumstances of their visit. However, Linda told them in arrogant manner, *"So what, I can not do anything about it."*^[6] Subsequently, three other passengers with Caucasian features were graciously allowed to board, after the Fontanillas were told that the flight had been overbooked.^[7] The plane then took off with the Fontanillas' baggage in tow, leaving them behind.^[8] The Fontanillas then complained to Linda, who in turn gave them an ugly stare and rudely uttered, *"It's not my fault. It's the fault of the company. Just sit down and wait."*^[9] When Mr. Fontanilla reminded Linda of the inconvenience being caused to them, she bluntly retorted, *"Who do you think you are? You lousy Flips are good for nothing beggars. You always ask for American aid."* After which she remarked *"Don't worry about your baggage. Anyway there is nothing in there. What are you doing here anyway? I will report you to immigration. You Filipinos should go home."*^[10] Such rude statements were made in front of other people in the airport causing the Fontanillas to suffer shame, humiliation and embarrassment. The chastening situation even caused the younger Fontanilla to break into tears.^[11] After some time, Linda, without any explanation, offered the Fontanillas \$50.00 each. She simply said *"Take it or leave it."* This, the Fontanillas declined.^[12] The Fontanillas then proceeded to the United Airlines customer service counter to plead their case. The male employee at the counter reacted by shouting that he was ready for it and left without saying anything.^[13] The Fontanillas were not booked on the next flight, which departed for San Francisco at 11:00 a.m. It was only at 12:00 noon that they were able to leave Los Angeles on United Airlines Flight No. 803.

Petitioner United Airlines has a different version of what occurred at the Los Angeles Airport on May 5, 1989.

According to United Airlines, the Fontanillas did not initially go to the check-in counter to get their seat assignments for UA Flight 1108. They instead proceeded to join the queue boarding the aircraft without first securing their seat assignments as required in their ticket and boarding passes. Having no seat assignments, the stewardess at the door of the plane instructed them to go to the check-in counter. When the Fontanillas proceeded to the check-in counter, Linda Allen, the United Airlines Customer Representative at the counter informed them that the flight was overbooked. She booked them on the next available flight and offered them denied boarding compensation. Allen vehemently denies uttering the derogatory and racist words attributed to her by the Fontanillas.^[14] The incident prompted the Fontanillas to file Civil Case No. 89-4268 for damages before the Regional Trial Court of Makati. After trial on the merits, the trial court rendered a decision, the dispositive portion of which reads as follows:

WHEREFORE, judgment is rendered dismissing the complaint. The counterclaim is likewise dismissed as it appears that plaintiffs were not actuated by legal malice when they filed the instant complaint.^[15]

On appeal, the Court of Appeals ruled in favor of the Fontanillas. The appellate court found that there was an admission on the part of United Airlines that the Fontanillas did in fact observe the check-in requirement. It ruled further that even assuming there was a failure to observe the check-in requirement, United Airlines failed to comply with the procedure laid down in cases where a passenger is denied boarding. The appellate court likewise gave credence to the claim of Aniceto Fontanilla that the employees of United Airlines were discourteous and arbitrary and, worse, discriminatory. In light of such treatment, the Fontanillas were entitled to moral damages. The dispositive portion of the decision of the respondent Court of Appeals dated 29 September 1995, states as follows:

WHEREFORE, in view of the foregoing, judgment appealed herefrom is hereby REVERSED and SET ASIDE, and a new judgment is entered ordering defendant-appellee to pay plaintiff-appellant the following:

- a) P200,000.00 as moral damages;
- b) P200,000.00 as exemplary damages;
- c) P50, 000.00 as attorney's fees.

No pronouncement as to costs.

SO ORDERED.^[16]

Petitioner United Airlines now comes to this Court raising the following assignment of errors:

I

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE TRIAL COURT WAS WRONG IN FAILING TO CONSIDER THE ALLEGED ADMISSION THAT PRIVATE RESPONDENT OBSERVED THE CHECK-IN REQUIREMENT.

II

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT PRIVATE RESPONDENT'S FAILURE TO CHECK-IN WILL NOT DEFEAT HIS CLAIMS BECAUSE THE DENIED BOARDING RULES WERE NOT COMPLIED WITH.

III

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT PRIVATE RESPONDENT IS ENTITLED TO MORAL DAMAGES OF P200, 000.

IV

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT PRIVATE RESPONDENT IS ENTITLED TO EXEMPLARY DAMAGES OF P200,000.

V

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN RULING THAT PRIVATE RESPONDENT IS ENTITLED TO ATTORNEY'S FEES OF P50, 000.

[17]

On the first issue raised by the petitioner, the respondent Court of Appeals ruled that when Rule 9, Section 1 of the Rules of Court,^[18] there was an implied admission in petitioner's answer in the allegations in the complaint that private respondent and his son observed the "check-in requirement at the Los Angeles Airport." Thus:

A perusal of the above pleadings filed before the trial court disclosed that there exists a blatant admission on the part of the defendant-appellee that the plaintiffs-appellants indeed observed the "check-in" requirement at the Los Angeles Airport on May 5, 1989. In view of defendant-appellee's admission of plaintiffs-appellants' material averment in the complaint, We find no reason why the trial court should rule against such admission.^[19]

We disagree with the above conclusion reached by respondent Court of Appeals. Paragraph 7 of private respondents' complaint states:

7. On May 5, 1989 at 9:45 a.m., plaintiff and his son checked in at defendant's designated counter at the airport in Los Angeles for their scheduled flight to San Francisco on defendant's Flight No. 1108.^[20]

Responding to the above allegations, petitioner averred in paragraph 4 of its answer, thus:

4. Admits the allegation set forth in paragraph 7 of the complaint except to deny that plaintiff and his son checked in at 9:45 a.m., for lack of knowledge or information at this point in time as to the truth thereof.^[21]

The rule authorizing an answer that the defendant has no knowledge or information sufficient to form a belief as to the truth of an averment and giving such answer the effect of a denial, does not apply where the fact as to which want of knowledge is asserted is so plainly and necessarily within the defendant's knowledge that his averment of ignorance must be palpably untrue.^[22] Whether or not private respondents checked in at petitioner's designated counter at the airport at 9:45 a.m. on May 5, 1989 must necessarily be within petitioner's knowledge.

While there was no specific denial as to the fact of compliance with the "check-in" requirement by private respondents, petitioner presented evidence to support its contention that there indeed was no compliance.

Private respondents then are said to have waived the rule on admission. It not only presented evidence to support its contention that there was compliance with the check-in requirement, it even allowed petitioner to present rebuttal evidence. In the case of *Yu Chuck vs. "Kong Li Po,"* we ruled that:

The object of the rule is to relieve a party of the trouble and expense in proving in the first instance an alleged fact, the existence or non-existence of which is necessarily within the knowledge of the adverse party, and of the necessity (to his opponent's case) of establishing which such adverse party is notified by his opponent's pleadings.

The plaintiff may, of course, waive the rule and that is what must be considered to have done (sic) by introducing evidence as to the execution of the document and failing to object to the defendant's evidence in refutation; all this evidence is now competent and the case must be decided thereupon.^[23]

The determination of the other issues raised is dependent on whether or not there was a breach of contract in bad faith on the part of the petitioner in not allowing the Fontanillas to board United Airlines Flight 1108.

It must be remembered that the general rule in civil cases is that the party having the burden of proof of an essential fact must produce a preponderance of evidence thereon.^[24] Although the evidence adduced by the plaintiff is stronger than that presented by the defendant, a judgment cannot be entered in favor of the former, if his evidence is not sufficient to sustain his cause of action. The plaintiff must rely on the strength of his own evidence and not upon the weakness of the defendant's.^[25] Proceeding from this, and considering the contradictory findings of facts by the Regional Trial Court and the Court of Appeals, the question before this Court is whether or not private respondents were able to prove with adequate evidence his allegations of breach of contract in bad faith.

We rule in the negative.

Time and again, the Court has pronounced that appellate courts should not, unless for strong and cogent reasons, reverse the findings of facts of trial courts. This is so because trial judges are in a better position to examine real evidence and at a vantage point to observe the actuation and the demeanor of the witnesses.^[26] While not the sole indicator of the credibility of a witness, it is of such weight that it has been said to be the touchstone of credibility.^[27] Aniceto Fontanilla's assertion that upon arrival at the airport at 9:45 a.m., he immediately proceeded to the check-in counter, and that Linda Allen punched in something into the computer is specious and not supported by the evidence on record. In support of their allegations, private respondents submitted a copy of the boarding pass. Explicitly