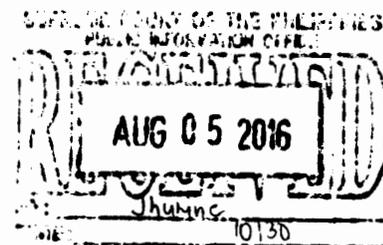




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION



**CATHAY PACIFIC AIRWAYS,
LTD.,**

Petitioner,

G. R. No. 188283

Present:

- versus -

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PERLAS-BERNABE, and
CAGUIOA, *JJ*.

**SPOUSES ARNULFO and EVELYN
FUENTEBELLA,**

Respondents.

Promulgated:

JUL 20 2016

X ----- X

DECISION

SERENO, *CJ*:

This is a Petition for Review on Certiorari filed by Cathay Pacific Airways Ltd. from the Court of Appeals (CA) Decision¹ and Resolution² in CA-G.R. CV No. 87698. The CA affirmed with modification the Decision³ issued by the Regional Trial Court (RTC) Branch 30 in San Jose, Camarines Sur, in Civil Case No. T-635.

THE CASE

The case originated from a Complaint⁴ for damages filed by respondents Arnulfo and Evelyn Fuentebella against petitioner Cathay Pacific Airways Ltd., a foreign corporation licensed to do business in the Philippines. Respondents prayed for a total of ₱13 million in damages for the alleged besmirched reputation and honor, as well as the public embarrassment they had suffered as a result of a series of involuntary downgrades of their trip from Manila to Sydney via Hong Kong on

¹ Penned by Associate Justice Jose C. Reyes, Jr. and concurred in by Associate Justices Andres B. Reyes, Jr. and Normandie B. Pizarro; *rollo*, pp. 77-96; dated 31 March 2009.

² *Id.* at 98; dated 11 June 2009.

³ RTC Records, pp. 1242-1260; dated 19 May 2006.

⁴ *Id.* at 1-6.

25 October 1993 and from Hong Kong to Manila on 2 November 1993.⁵ In its Answer,⁶ petitioner maintained that respondents had flown on the sections and sectors they had booked and confirmed.

The RTC ruled in favor of respondents and awarded ₱5 million as moral damages, ₱1 million as exemplary damages, and ₱500,000 as attorney's fees. Upon review, the CA upheld the disposition and the awards, with the modification that the attorney's fees be reduced to ₱100,000.

Petitioner prays that the Complaint be dismissed, or in the alternative, that the damages be substantially and equitably reduced.⁷

FACTS

In 1993, the Speaker of the House authorized Congressmen Arnulfo Fuentesbello (respondent Fuentesbello), Alberto Lopez (Cong. Lopez) and Leonardo Fugoso (Cong. Fugoso) to travel on official business to Sydney, Australia, to confer with their counterparts in the Australian Parliament from 25 October to 6 November 1993.⁸

On 22 October 1993, respondents bought Business Class tickets for Manila to Sydney via Hong Kong and back.⁹ They changed their minds, however, and decided to upgrade to First Class.¹⁰ From this point, the parties presented divergent versions of facts. The overarching disagreement was on whether respondents should have been given First Class seat accommodations for all the segments of their itinerary.

According to respondents, their travel arrangements, including the request for the upgrade of their seats from Business Class to First Class, were made through Cong. Lopez.¹¹ The congressman corroborated this allegation.¹² On the other hand, petitioner claimed that a certain Carol Dalag had transacted on behalf of the congressmen and their spouses for the purchase of airline tickets for Manila-Hong Kong-Sydney-Hong Kong-Manila.¹³ According to petitioner, on 23 October 1993, one of the passengers called to request that the booking be divided into two: one for the Spouses Lopez and Spouses Fugoso, and a separate booking for respondents.¹⁴ Cong. Lopez denied knowing a Carol Dalag.¹⁵ He was not questioned regarding the request for two separate bookings.¹⁶ However, in

⁵ *Rollo*, pp. 5-6.

⁶ RTC Records, pp. 21-30.

⁷ *Rollo*, p. 67.

⁸ *Id.* at 78.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 112.

¹² *Id.* at 86-87.

¹³ *Id.* at 8.

¹⁴ *Id.*

¹⁵ TSN of the Deposition of Congressman Alberto Lopez, RTC Records, p. 674.

¹⁶ See the TSN of the Deposition of Congressman Alberto Lopez, RTC Records, pp. 664-674.

his testimony, he gave the impression that the travel arrangements had been made for them as one group.¹⁷ He admitted that he had called up petitioner, but only to request an upgrade of their tickets from Business Class to First Class.¹⁸ He testified that upon assurance that their group would be able to travel on First Class upon cash payment of the fare difference, he sent a member of his staff that same afternoon to pay.¹⁹

Petitioner admits that First Class tickets were issued to respondents, but clarifies that the tickets were open-dated (waitlisted).²⁰ There was no showing whether the First Class tickets issued to Sps. Lopez and Sps. Fugoso were open-dated or otherwise, but it appears that they were able to fly First Class on all the segments of the trip, while respondents were not.²¹

On 25 October 1993, respondents queued in front of the First Class counter in the airport.²² They were issued boarding passes for Business Class seats on board CX 902 bound for Hong Kong from Manila and Economy Class seats on board CX 101 bound for Sydney from Hong Kong.²³ They only discovered that they had not been given First Class seats when they were denied entry into the First Class lounge.²⁴ Respondent Fuentebella went back to the check-in counter to demand that they be given First Class seats or at the very least, access to the First Class Lounge. He recalled that he was treated by the ground staff in a discourteous, arrogant and rude manner.²⁵ He was allegedly told that the plane would leave with or without them.²⁶ Both the trial court and the CA gave credence to the testimony of respondent Fuentebella.

During trial, petitioner offered the transcript of the deposition of its senior reservation supervisor, Nenita Montillana (Montillana).²⁷ She said that based on the record locator, respondents had confirmed reservations for Business Class seats for the Manila-Hong Kong, Sydney-Hong Kong, and Hong Kong-Manila flights; but the booking for Business Class seats for the Hong Kong-Sydney leg was “under request;” and due to the flight being full, petitioner was not able to approve the request.²⁸

¹⁷ Id. at 670. The relevant portion reads:

A – We took a commercial flight, Cathay Pacific Airways plane.

Q – When you mentioned “We”, to whom are you referring to?

A – Myself, my wife, Congressman and Mrs. Fugoso and Congressman and Mrs. Fuentebella

Q – In what class were you booked on that flight?

A – We were originally booked on Business Class but we decided to be upgraded to First Class, hence, I requested Cathay Pacific that all six (6) of us be upgraded accordingly.

¹⁸ *Rollo*, p. 87.

¹⁹ Id.

²⁰ Id. at 16.

²¹ Id. at 8, 10.

²² Id. at 79.

²³ RTC Records, pp. 9-10.

²⁴ *Rollo*, p. 79.

²⁵ See Memorandum for Plaintiffs, RTC Records, p. 1187.

²⁶ *Rollo*, p. 92.

²⁷ Id. at 17.

²⁸ Id. at 20-21.

Montillana admitted that First Class tickets had been issued to respondents, but qualified that those tickets were open-dated.²⁹ She referred to the plane tickets, which bore the annotations "OPEN F OPEN" for all sectors of the flight.³⁰ Petitioner explained that while respondents expressed their desire to travel First Class, they could not be accommodated because they had failed to confirm and the sections were full on the date and time of their scheduled and booked flights.³¹ Petitioner also denied that its personnel exhibited arrogance in dealing with respondents; on the contrary, it was allegedly respondent Fuentebella who was hostile in dealing with the ground staff.³²

Respondents alleged that during transit through the Hong Kong airport on 25 October 1993, they were treated with far less respect and courtesy by the ground staff.³³ In fact, the first employee they approached completely ignored them and turned her back on them.³⁴ The second one did not even give them any opportunity to explain why they should be given First Class seats, but instead brushed aside their complaints and told them to just fall in line in Economy Class.³⁵ The third employee they approached shoved them to the line for Economy Class passengers in front of many people.³⁶

Petitioner used the deposition of Manuel Benipayo (Benipayo), airport service officer, and Raquel Galvez-Leonio (Galvez-Leonio), airport services supervisor, to contradict the claims of respondents. Benipayo identified himself as the ground staff who had dealt with respondents' complaint.³⁷ He testified that around five o'clock on 25 October 1993, respondent Fuentebella loudly insisted that he be accommodated on First Class. But upon checking their records, he found out that respondents were only booked on Business Class.³⁸ Benipayo tried to explain this to respondents in a very polite manner,³⁹ and he exerted his best effort to secure First Class seats for them, but the plane was already full.⁴⁰ He presented a telex sent to their Hong Kong office, in which he requested assistance to accommodate respondents in First Class for the Hong Kong-Sydney flight.⁴¹ He claimed that he was intimidated by respondent Fuentebella into making the notations "Involuntary Downgrading" and "fare difference to be refunded" on the tickets.⁴²

²⁹ Id. at 23-24.

³⁰ Id.

³¹ Id. 6, 9.

³² Id. at 14.

³³ Id. at 146.

³⁴ Id.

³⁵ Id. at 146-147.

³⁶ Id. at 147.

³⁷ Id. at 35-36.

³⁸ Id. at 82.

³⁹ Id. at 37.

⁴⁰ Id. at 36-37.

⁴¹ Id. at 40.

⁴² Id. at 37-38.

For her part, Galvez-Leonio testified that it was company policy not to engage passengers in debates or drawn-out discussions, but to address their concerns in the best and proper way.⁴³ She admitted, however, that she had no personal knowledge of compliance in airports other than NAIA.⁴⁴

Respondents narrated that for their trip from Hong Kong to Sydney, they were squeezed into very narrow seats for eight and a half hours and, as a result, they felt groggy and miserable upon landing.⁴⁵

Respondents were able to travel First Class for their trip from Sydney to Hong Kong on 30 October 1993.⁴⁶ However, on the last segment of the itinerary from Hong Kong to Manila on 2 November 1993, they were issued boarding passes for Business Class.⁴⁷

Upon arrival in the Philippines, respondents demanded a formal apology and payment of damages from petitioner.⁴⁸ The latter conducted an investigation, after which it maintained that no undue harm had been done to them.⁴⁹

RULING OF THE REGIONAL TRIAL COURT

In resolving the case, the trial court first identified the ticket as a contract of adhesion whose terms, as such, should be construed against petitioner.⁵⁰ It found that respondents had entered into the contract because of the assurance that they would be given First Class seats.⁵¹

The RTC gave full faith and credence to the testimonies of respondents and Cong. Fugoso, who testified in open court:

[T]he court was able to keenly observe [the] demeanor [of respondents' witnesses] on the witness stand and they appear to be frank, spontaneous, positive and forthright neither destroyed nor rebutted in the course of the entire trial... The court cannot state the same observation in regard to those witnesses who testified by way of deposition [namely, Cong. Lopez all the witnesses of petitioner], except those appearing in the transcript of records. And on record, it appears [that] witness Nenita Montillana was reading a note.⁵²

x x x x

[Montillana's] credibility, therefore, is affected and taking together [her] whole testimony based on the so-called locator record of the plaintiffs

⁴³ Id. at 43.

⁴⁴ RTC Records, pp. 533-534.

⁴⁵ *Rollo*, pp. 5, 146.

⁴⁶ Id. at 6.

⁴⁷ Id.

⁴⁸ Id. at 115.

⁴⁹ See letter, RTC Records, p. 33.

⁵⁰ RTC Records, pp. 1253-1254.

⁵¹ Id. at 1255.

⁵² Id. at 1256.

spouses from the defendant Cathay Pacific Airways, the same has become less credible, if not, doubtful, to say the least.⁵³

The trial court ordered petitioner to pay ₱5 million as moral damages, ₱1 million as exemplary damages, and ₱500,000 as attorney's fees. In setting the award for moral damages, the RTC considered the prestigious position held by respondent Fuentesbella, as well as the bad faith exhibited by petitioner.⁵⁴ According to the trial court, the contract was flagrantly violated in four instances: first, when respondents were denied entry to the First Class lounge; second, at the check-in counter when the airport services officer failed to adequately address their concern; third, at the Hong Kong airport when they were ignored; and fourth, when respondents became the butt of jokes upon their arrival in Sydney.⁵⁵

RULING OF THE COURT OF APPEALS

The CA affirmed the RTC Decision with the modification that the attorney's fees be reduced to ₱100,000. The appellate court reviewed the records and found that respondents were entitled to First Class accommodation throughout their trip.⁵⁶ It gave weight to the testimony of Cong. Lopez that they had paid the fare difference to upgrade their Business Class tickets to First Class.⁵⁷ It also considered the handwritten notation on the First Class tickets stating "fare difference to be refunded" as proof that respondents had been downgraded.⁵⁸

With regard to the question of whether respondents had confirmed their booking, the CA considered petitioner's acceptance of the fare difference and the issuance of the First Class tickets as proof that the request for upgrade had been approved.⁵⁹ It noted that the tickets bore the annotation that reconfirmation of flights is no longer necessary, further strengthening the fact of confirmation.⁶⁰

The CA found that there were no conditions stated on the face of the tickets; hence, respondents could not be expected to know that the tickets they were holding were open-dated and were subject to the availability of seats.⁶¹ It applied the rule on contracts of adhesion, and construed the terms against petitioner.

Finding that there was a breach of contract when petitioner assigned Business Class and Economy Class seats to First Class ticket holders, the CA proceeded to determine whether respondents were entitled to moral

⁵³ Id. at 1258.

⁵⁴ Id. at 1259.

⁵⁵ Id.

⁵⁶ *Rollo*, p. 85.

⁵⁷ Id. at 86-87.

⁵⁸ Id. at 88.

⁵⁹ Id. at 89.

⁶⁰ Id. at 88.

⁶¹ Id.

damages. It said that bad faith can be inferred from the inattentiveness and lack of concern shown by petitioner's personnel to the predicament of respondents.⁶² The court also considered as a badge of bad faith the fact that respondents had been downgraded due to overbooking.⁶³

As regards the amount of moral damages awarded by the RTC, the CA found no prejudice or corruption that might be imputed to the trial court in light of the circumstances.⁶⁴ The appellate court pointed out that the trial court only awarded half of what had been prayed for.⁶⁵

The award of exemplary damages was sustained to deter a similar shabby treatment of passengers and a wanton and reckless refusal to honor First Class tickets.⁶⁶ The award for attorney's fees was likewise sustained pursuant to Article 2208(2) of the Civil Code which allows recovery thereof when an act or omission of the defendant compelled the plaintiff to litigate or incur expense to protect the latter's interest.⁶⁷

RULING OF THE COURT

There was a breach of contract.

In *Air France v. Gillego*,⁶⁸ this Court ruled that in an action based on a breach of contract of carriage, the aggrieved party does not have to prove that the common carrier was at fault or was negligent; all that he has to prove is the existence of the contract and the fact of its nonperformance by the carrier. In this case, both the trial and appellate courts found that respondents were entitled to First Class accommodations under the contract of carriage, and that petitioner failed to perform its obligation. We shall not delve into this issue more deeply than is necessary because We have decided to accord respect to the factual findings of the trial and appellate courts. We must, however, point out a crucial fact We have uncovered from the records that further debunks petitioner's suggestion⁶⁹ that two sets of tickets were issued to respondents – one for Business Class and another for open-dated First Class tickets with the following entries:⁷⁰

⁶² Id. at 92.

⁶³ Id. at 93.

⁶⁴ Id. at 94.

⁶⁵ Id.

⁶⁶ Id.

⁶⁷ Id. at 95.

⁶⁸ 653 Phil. 138 (2010); citing *China Air Lines, Ltd. v. Court of Appeals*, G.R. Nos. 45985 & 46036, 18 May 1990, 185 SCRA 449, 457.

⁶⁹ *Rollo*, p. 28.

"If indeed assurances or representations were made by petitioner that should respondents pay the difference between Business Class and First Class tickets then they would be booked and confirmed on the First Class, then there is no reason why they should be in possession of the two (2) unused Business Class tickets. The said Business Class tickets should have been surrendered and petitioner would surely have taken these from the respondents and issued them two (2) First Class tickets, if the latter merely paid the difference between the Business Class and First Class tickets. Respondents' possession of the two (2) unused Business Class tickets as well as two (2) First Class ticket stubs means that two (2) sets of tickets were presented to and used during their flight with petitioner."

⁷⁰ See RTC Records, pp. 262, 267, 272, 277.

Segment	Business Class Tickets Date of Issue: 23 October 1993			First Class Tickets Date of Issue: 25 October 1993			Actual Class Boarded
	Flight	Class	Status	Flight	Class	Status	
Manila-Hong Kong	CX 902	C	OK	OPEN	F	-	Business
Hong Kong-Sydney	CX 101	C	RQ	OPEN	F	-	Economy
Sydney-Hong Kong	CX 100	C	OK	OPEN	F	-	First
Hong Kong-Manila	CX 901	C	OK	OPEN	F	-	Business

The First Class tickets issued on 25 October 1993 indicate that they were “issued in exchange for Ticket Nos. 160-401123987 and 160-4474920334/5.”⁷¹ The latter set of tickets numbered 160-4474920334/5 correspond to the Business Class tickets issued on 23 October 1993, which in turn originated from Ticket No. 160-4011239858 issued on 22 October 1993.⁷²

With this information, We can conclude that petitioner may have been telling the truth that the passengers made many changes in their booking. However, their claim that respondents held both Business Class tickets and the open-dated First Class tickets is untrue. We can also conclude that on the same day of the flight, petitioner still issued First Class tickets to respondents. The incontrovertible fact, therefore, is that respondents were holding First Class tickets on 25 October 1993.

In *FGU Insurance Corporation v. G.P. Sarmiento Trucking Corporation*,⁷³ We recognized the interests of the injured party in breach of contract cases:

x x x. The law, recognizing the obligatory force of contracts, will not permit a party to be set free from liability for any kind of misperformance of the contractual undertaking or a contravention of the tenor thereof. A breach upon the contract confers upon the injured party a valid cause for recovering that which may have been lost or suffered. The remedy serves to preserve the interests of the promisee that may include his “expectation interest,” which is his interest in having the benefit of his bargain by being put in as good a position as he would have been in had the contract been performed, or his “reliance interest,” which is his interest in being reimbursed for loss caused by reliance on the contract by being put in as good a position as he would have been in had the contract not been made; or his “restitution interest,” which is his interest in having restored to him any benefit that he has conferred on the other party.

According to Montillana, a reservation is deemed confirmed when there is a seat available on the plane.⁷⁴ When asked how a passenger was

⁷¹ Id. at 272, 277.

⁷² Id. at 262, 267.

⁷³ 435 Phil. 333 (2002) cited in *Radio Communications of the Philippines, Inc. v. Verchez*, 516 Phil. 725 (2006).

⁷⁴ *Rollo*, p. 18.

informed of the confirmation, Montillana replied that computer records were consulted upon inquiry.⁷⁵ By its issuance of First Class tickets on the same day of the flight in place of Business Class tickets that indicated the preferred and confirmed flight, petitioner led respondents to believe that their request for an upgrade had been approved.

Petitioner tries to downplay the factual finding that no explanation was given to respondents with regard to the types of ticket that were issued to them. It ventured that respondents were seasoned travelers and therefore familiar with the concept of open-dated tickets.⁷⁶ Petitioner attempts to draw a parallel with *Sarreal, Jr. v. JAL*,⁷⁷ in which this Court ruled that the airline could not be faulted for the negligence of the passenger, because the latter was aware of the restrictions carried by his ticket and the usual procedure for travel. In that case, though, records showed that the plaintiff was a well-travelled person who averaged two trips to Europe and two trips to Bangkok every month for 34 years. In the present case, no evidence was presented to show that respondents were indeed familiar with the concept of open-dated ticket. In fact, the tickets do not even contain the term "open-dated."

There is basis for the award of moral and exemplary damages; however, the amounts were excessive.

Moral and exemplary damages are not ordinarily awarded in breach of contract cases. This Court has held that damages may be awarded only when the breach is wanton and deliberately injurious, or the one responsible had acted fraudulently or with malice or bad faith.⁷⁸ Bad faith is a question of fact that must be proven by clear and convincing evidence.⁷⁹ Both the trial and the appellate courts found that petitioner had acted in bad faith. After review of the records, We find no reason to deviate from their finding.

Petitioner argues that the testimonial evidence of the treatment accorded by its employees to respondents is self-serving and, hence, should not have been the basis for the finding of bad faith.⁸⁰ We do not agree. The Rules of Court do not require that the testimony of the injured party be corroborated by independent evidence. In fact, in criminal cases in which the standard of proof is higher, this Court has ruled that the testimony of even one witness may suffice to support a conviction. What more in the present case, in which petitioner has had adequate opportunity to controvert the testimonies of respondents.

⁷⁵ Id.

⁷⁶ Id. at 28.

⁷⁷ G.R. No. 75308, 23 March 1992, 207 SCRA 359.

⁷⁸ See *Cervantes v. Court of Appeals*, 363 Phil. 399 (1999).

⁷⁹ Id.

⁸⁰ *Rollo*, p. 34

In *Singapore Airlines Limited v. Fernandez*,⁸¹ bad faith was imputed by the trial court when it found that the ground staff had not accorded the attention and treatment warranted under the circumstances. This Court found no reason to disturb the finding of the trial court that the inattentiveness and rudeness of the ground staff were gross enough to amount to bad faith. The bad faith in the present case is even more pronounced because petitioner's ground staff physically manhandled the passengers by shoving them to the line, after another staff had insulted them by turning her back on them.

However, the award of ₱5 million as moral damages is excessive, considering that the highest amount ever awarded by this Court for moral damages in cases involving airlines is ₱500,000.⁸² As We said in *Air France v. Gillego*,⁸³ "the mere fact that respondent was a Congressman should not result in an automatic increase in the moral and exemplary damages."

We find that upon the facts established, the amount of ₱500,000 as moral damages is reasonable to obviate the moral suffering that respondents have undergone. With regard to exemplary damages, jurisprudence shows that ₱50,000 is sufficient to deter similar acts of bad faith attributable to airline representatives.⁸⁴

WHEREFORE, the Petition is **PARTIALLY GRANTED**. The Court of Appeals Decision dated 31 March 2009 in CA-G.R. CV No. 87698 is hereby **AFFIRMED** with **MODIFICATION** in that moral and exemplary damages are hereby reduced to ₱500,000 and ₱50,000, respectively. These amounts shall earn legal interest of 6% per annum from the finality of this Decision until full payment.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

⁸¹ 463 Phil. 145 (2003).

⁸² In *Zulueta v. Pan American World Airways, Inc.* (150 Phil. 465 [1972]), this Court awarded moral damages amounting to ₱500,000 to a couple and their daughter who were constrained to take Third Class accommodation in lieu of the First Class passage they were entitled to, rudely addressed, publicly humiliated, cordoned off by men in uniform as if they were criminals, referred to as monkeys, and off-loaded on a barren island.

In *Japan Airlines v. Martinez* (575 Phil. 359 [2008]), the Court awarded the same amount because of the humiliation and delay suffered by the plaintiff, who had been wrongfully accused of falsification of travel documents and "haughtily ejected" from the plane in front of many passengers.

In *Northwest Airlines, Inc. v. Spouses Heshan* (625 Phil. 304 [2010]), the same amount of moral damages was awarded because plaintiffs, who had confirmed seats for the flight, were forced to board another airline due to overbooking.

⁸³ 653 Phil. 138 (2010).

⁸⁴ See *Air France v. Gillego*, 653 Phil. 138 (2010).

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice