



Republic of the Philippines
Supreme Court

Manila

SECOND DIVISION

CATHAY PACIFIC AIRWAYS,
Petitioner,

G.R. No. 185891

Present:

CARPIO, J.,
Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

-versus-

**JUANITA REYES, WILFREDO
REYES, MICHAEL ROY REYES,
SIXTA LAPUZ, and SAMPAGUITA
TRAVEL CORP.,**

Promulgated:

Respondents.

JUN 26 2013

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DECISION

PEREZ, J.:

Assailed in this petition for review are the Decision¹ dated 22 October 2008 in CA-G.R. CV. No. 86156 and the 6 January 2009 Resolution² in the same case of the Court of Appeals.

This case started as a complaint for damages filed by respondents against Cathay Pacific Airways (Cathay Pacific) and Sampaguita Travel Corp. (Sampaguita Travel), now joined as a respondent. The factual backdrop leading to the filing of the complaint is as follows:

¹ Penned by Associate Justice Marlene Gonzales-Sison with Associate Justices Juan Q. Enriquez, Jr. and Isaias P. Dicedican, concurring. *Rollo*, pp. 49-59.
² *Id.* at 73-74.

Sometime in March 1997, respondent Wilfredo Reyes (Wilfredo) made a travel reservation with Sampaguita Travel for his family’s trip to Adelaide, Australia scheduled from 12 April 1997 to 4 May 1997. Upon booking and confirmation of their flight schedule, Wilfredo paid for the airfare and was issued four (4) Cathay Pacific round-trip airplane tickets for Manila-HongKong-Adelaide-HongKong-Manila with the following record locators:

Name of Passenger	PNR OR RECORD LOCATOR NOS. ³
Reyes, Wilfredo	J76TH
Reyes, Juanita	HDWC3
Reyes, Michael Roy	H9VZF
Lapuz, Sixta	HTFMG ⁴

On 12 April 1997, Wilfredo, together with his wife Juanita Reyes (Juanita), son Michael Roy Reyes (Michael) and mother-in-law Sixta Lapuz (Sixta), flew to Adelaide, Australia without a hitch.

One week before they were scheduled to fly back home, Wilfredo reconfirmed his family’s return flight with the Cathay Pacific office in Adelaide. They were advised that the reservation was “still okay as scheduled.”

On the day of their scheduled departure from Adelaide, Wilfredo and his family arrived at the airport on time. When the airport check-in counter opened, Wilfredo was informed by a staff from Cathay Pacific that the Reyeses did not have confirmed reservations, and only Sixta’s flight booking was confirmed. Nevertheless, they were allowed to board the flight to HongKong due to adamant pleas from Wilfredo. When they arrived in HongKong, they were again informed of the same problem. Unfortunately this time, the Reyeses were not allowed to board because the flight to Manila was fully booked. Only Sixta was allowed to proceed to Manila from

³ PNR or Passenger Name Record is used interchangeably with Record Locator in this case. In the strict sense, these two terms are different. A Passenger Name Record (PNR) contains the details of a passenger's reservation and other information related to a passenger's trip. PNRs can also contain information to assist airline personnel with passenger handling. When a PNR is filed in the system, it is assigned a 6-character code called a record locator. The record locator is used to retrieve a previously created and filed PNR. Amadeus Passenger Name Record- User Guide <http://www.google.com.ph/url?sa=t&rct=j&q=amadeus%20pnr&source=web&cd=1&ved=0CCsQFjAA&url=http%3A%2F%2Ftraining.amadeusschweiz.com%2Fen%2Fdocumentation%2Fusermanuals.html%3Ffile%3Dassets%2Ftheme%2Fcontent%2Fdocs%2Fen%2Fusermanuals%2FAmadeus%20Passenger%20Name%20Record.pdf&ei=FuRNUcO8NoneigeJzYGgAw&usg=AFQjCNFTchpgHoi pa9XzK0mebrN9bdNvwA>. (Last visited 12 April 2013).

⁴ *Rollo*, p. 7.

HongKong. On the following day, the Reyeses were finally allowed to board the next flight bound for Manila.

Upon arriving in the Philippines, Wilfredo went to Sampaguita Travel to report the incident. He was informed by Sampaguita Travel that it was actually Cathay Pacific which cancelled their bookings.

On 16 June 1997, respondents as passengers, through counsel, sent a letter to Cathay Pacific advising the latter of the incident and demanding payment of damages.

After a series of exchanges and with no resolution in sight, respondents filed a Complaint for damages against Cathay Pacific and Sampaguita Travel and prayed for the following relief: a) ₱1,000,000.00 as moral damages; b) ₱300,000.00 as actual damages; c) ₱100,000.00 as exemplary damages; and d) ₱100,000.00 as attorney's fees.⁵

In its Answer, Cathay Pacific alleged that based on its computerized booking system, several and confusing bookings were purportedly made under the names of respondents through two (2) travel agencies, namely: Sampaguita Travel and Rajah Travel Corporation. Cathay Pacific explained that only the following Passenger Name Records (PNRs) appeared on its system: PNR No. H9V15, PNR No. HTFMG, PNR No. J9R6E, PNR No. J76TH, and PNR No. H9VSE. Cathay Pacific went on to detail each and every booking, to wit:

1. **PNR No. H9V15**

Agent: Sampaguita Travel Corp.

Party: Ms. J Reyes, Mr. M R Reyes, Mr. W Reyes

Itinerary: CX902/CX105 MNL/HKG/ADL 12 APR.

The itinerary listed above was confirmed booking. However, the itinerary did not include booking for the return flights.

From information retrieved from ABACUS (the booking system used by agents), the agent has, on 10 April, added segments CX104/CX905 ADL/HKG/MNL 04 MAY on MK status, which was not a confirmed booking. MK function is used for synchronizing records or for ticketing purposes only. It does not purport to be a real booking. As a result, no booking was transmitted into CPA's system.

2. **PNR No. HTFMG**

Agent: Sampaguita Travel Corp.

⁵ Records, p. 3.

Party: Mrs. Sixta Lapuz

Itinerary: CX902/CX105 MNL/HKG/ADL 12 APR, CX104/CX907 ADL/HKG/MNL 04/05 MAY.

The above itinerary is the actual itinerary that the passenger has flown. However, for the return sector, HKG/MNL, the original booking was on CX905 of 04 May. This original booking was confirmed on 21 Mar. and ticketed on 11 Apr.

This booking was cancelled on 04 May at 9:03 p.m. when CX905 was almost scheduled to leave at the behest of the passenger and she was re-booked on CX907 of 05 May at the same time.

3. **PNR No. J9R6E**

Agent: Rajah Travel Corp.

Party: Mrs. Julieta Gaspar, Mrs. Sixta Lapuz, Mrs. Juanita Reyes, Mr. Michael Roy Reyes, Mr. Wilfredo Reyes.

Itinerary: CX900 & CX902 MNL/HKG 12 APR, CX105 HKG/ADL 12 APR, CX104/CX905 ADL/HKG/MNL 04 MAY & 07 MAY

The party was confirmed initially on CX900/12 Apr, CX105/12 Apr, CX104/CX905 07 May and on waiting list for CX902/12 Apr, CX104/CX905 04 May.

However, on 31 Mar., the booking was cancelled by the agent.

4. **PNR No. J76TH**

Agent: Sampaguita Travel Corp.

Party: Mr. W Reyes

Itinerary: CX104/CX905 ADL/HKG/MNL 04 MAY.

The booking on the above itinerary was confirmed initially. When the agent was asked for the ticket number as the flight CX905 04 May was very critical, the agent has inputted the ticket number on 10 Apr. but has removed the record on 11 April. Since the booking was reflected as not ticketed, the booking was cancelled on 18 Apr. accordingly.

This PNR was split from another PNR record, H9VSE.

5. **PNR No. H9VSE**

Agent: Sampaguita Travel Corp.

Party: Ms. R Lapuz, Mr. R Lapuz, Mr. A Samson, originally Mr. W Reyes was included in this party as well

Itinerary: CX104/CX905 ADL/HKG/MNL 04 MAY.

The booking was confirmed initially but were not ticketed by 11 Apr. and was cancelled accordingly. However, the PNR of Mr. W Reyes who was originally included in this party was split to a separate record of J76TH.⁶

Cathay Pacific asserted that in the case of Wilfredo with PNR No. J76TH, no valid ticket number was inputted within a prescribed period which means that no ticket was sold. Thus, Cathay Pacific had the right to

⁶ Id. at 14-15.

cancel the booking. Cathay Pacific found that Sampaguita Travel initially inputted a ticket number for PNR No. J76TH and had it cancelled the following day, while the PNR Nos. HDWC3 and HTFMG of Juanita and Michael do not exist.

The Answer also contained a cross-claim against Sampaguita Travel and blamed the same for the cancellation of respondents’ return flights. Cathay Pacific likewise counterclaimed for payment of attorney’s fees.

On the other hand, Sampaguita Travel, in its Answer, denied Cathay Pacific’s claim that it was the cause of the cancellation of the bookings. Sampaguita Travel maintained that it made the necessary reservation with Cathay Pacific for respondents’ trip to Adelaide. After getting confirmed bookings with Cathay Pacific, Sampaguita Travel issued the corresponding tickets to respondents. Their confirmed bookings were covered with the following PNRs:

PASSENGER NAME	PNR No.
Lapuz, Sixta	H9V15/ J76TH
Reyes, Wilfredo	H9V15/HDWC3
Reyes, Michael Roy	H9V15/H9VZF
Reyes, Juanita	HTFMG ⁷

Sampaguita Travel explained that the Reyeses had two (2) PNRs each because confirmation from Cathay Pacific was made one flight segment at a time. Sampaguita Travel asserted that it only issued the tickets after Cathay Pacific confirmed the bookings. Furthermore, Sampaguita Travel exonerated itself from liability for damages because respondents were claiming for damages arising from a breach of contract of carriage. Sampaguita Travel likewise filed a cross-claim against Cathay Pacific and a counterclaim for damages.

During the pre-trial, the parties agreed on the following stipulation of facts:

- 1. That the plaintiffs did not deal directly with Cathay Pacific Airways;
- 2. That the plaintiffs did not make their bookings directly with Cathay Pacific Airways;

⁷ Id. at 55.

3. That the plaintiffs did not purchase and did not get their tickets from Cathay Pacific Airways;
4. That Cathay Pacific Airways has promptly replied to all communications sent by the plaintiffs through their counsel;
5. That the plane tickets issued to plaintiffs were valid, which is why they were able to depart from Manila to Adelaide, Australia and that the reason why they were not able to board their return flight from Adelaide was because of the alleged cancellation of their booking by Cathay Pacific Airways at Adelaide, save for that of Sixta Lapuz whose booking was confirmed by Cathay Pacific Airways;
6. That several reservations and bookings for the plaintiffs were done by defendant Sampaguita Travel Corporation through the computer reservation system and each of such request was issued a PNR;
7. That, as a travel agent, defendant Sampaguita Travel Corporation merely acts as a booking/sales/ticketing arm for airline companies and it has nothing to do with the airline operations;
8. That in the travel industry, the practice of reconfirmation of return flights by passengers is coursed or done directly with the airline company and not with the travel agent, which has no participation, control or authority in making such reconfirmations.
9. That in the travel industry, the practice of cancellation of flights is within the control of the airline and not of the travel agent, unless the travel agent is requested by the passengers to make such cancellations; and,
10. That defendant Cathay Pacific Airways has advertised that “there is no need to confirm your flight when travelling with us”, although Cathay Pacific Airways qualifies the same to the effect that in some cases there is a need for reconfirmations.⁸

After trial on the merits, the Regional Trial Court (RTC) rendered a Decision,⁹ the dispositive part of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the defendants and against the herein plaintiff. Accordingly, plaintiffs’ complaint is hereby ordered DISMISSED for lack of merit. Defendants’ counterclaims and cross-claims are similarly ordered dismissed for lack of merit. No pronouncement as to cost.¹⁰

The trial court found that respondents were in possession of valid tickets but did not have confirmed reservations for their return trip to Manila. Additionally, the trial court observed that the several PNRs opened by Sampaguita Travel created confusion in the bookings. The trial court however did not find any basis to establish liability on the part of either

⁸ Id. at 186-187.

⁹ Presided by Presiding Judge Severino B. De Castro, Jr. Id. at 446-454.

¹⁰ Id. at 454.

Cathay Pacific or Sampaguita Travel considering that the cancellation was not without any justified reason. Finally, the trial court denied the claims for damages for being unsubstantiated.

Respondents appealed to the Court of Appeals. On 22 October 2008, the Court of Appeals ordered Cathay Pacific to pay ₱25,000.00 each to respondents as nominal damages.

Upon denial of their motion for reconsideration, Cathay Pacific filed the instant petition for review assigning the following as errors committed by the Court of Appeals:

A.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR IN HOLDING THAT CATHAY PACIFIC AIRWAYS IS LIABLE FOR NOMINAL DAMAGES FOR ITS ALLEGED INITIAL BREACH OF CONTRACT WITH THE PASSENGERS EVEN THOUGH CATHAY PACIFIC AIRWAYS WAS ABLE TO PROVE BEYOND REASONABLE DOUBT THAT IT WAS NOT AT FAULT FOR THE PREDICAMENT OF THE RESPONDENT PASSENGERS.

B.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR IN RELYING ON MATTERS NOT PROVED DURING THE TRIAL AND NOT SUPPORTED BY THE EVIDENCE AS BASIS FOR HOLDING CATHAY PACIFIC AIRWAYS LIABLE FOR NOMINAL DAMAGES.

C.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR IN HOLDING CATHAY PACIFIC AIRWAYS LIABLE FOR NOMINAL DAMAGES TO RESPONDENT SIXTA LAPUZ.

D.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR IN NOT HOLDING SAMPAGUITA TRAVEL CORP. [LIABLE] TO CATHAY PACIFIC AIRWAYS FOR WHATEVER DAMAGES THAT THE AIRLINE COMPANY WOULD BE ADJUDGED THE RESPONDENT PASSENGERS.

E.

ALTERNATIVELY, WHETHER OR NOT THE COURT OF APPEALS COMMITTED A CLEAR AND REVERSIBLE ERROR WHEN IT

FAILED TO APPLY THE DOCTRINE OF STARE DECISIS IN FIXING
THE AMOUNT OF NOMINAL DAMAGES TO BE AWARDED.¹¹

Cathay Pacific assails the award of nominal damages in favor of respondents on the ground that its action of cancelling the flight bookings was justifiable. Cathay Pacific reveals that upon investigation, the respondents had no confirmed bookings for their return flights. Hence, it was not obligated to transport the respondents. In fact, Cathay Pacific adds, it exhibited good faith in accommodating the respondents despite holding unconfirmed bookings.

Cathay Pacific also scores the Court of Appeals in basing the award of nominal damages on the alleged asthmatic condition of passenger Michael and old age of Sixta. Cathay Pacific points out that the records, including the testimonies of the witnesses, did not make any mention of Michael's asthma. And Sixta was in fact holding a confirmed booking but she refused to take her confirmed seat and instead stayed in HongKong with the other respondents.

Cathay Pacific blames Sampaguita Travel for negligence in not ensuring that respondents had confirmed bookings for their return trips.

Lastly, assuming *arguendo* that the award of nominal damages is proper, Cathay Pacific contends that the amount should be reduced to ₱5,000.00 for each passenger.

At the outset, it bears pointing out that respondent Sixta had no cause of action against Cathay Pacific or Sampaguita Travel. The elements of a cause of action consist of: (1) a right existing in favor of the plaintiff, (2) a duty on the part of the defendant to respect the plaintiff's right, and (3) an act or omission of the defendant in violation of such right.¹² As culled from the records, there has been no violation of any right or breach of any duty on the part of Cathay Pacific and Sampaguita Travel. As a holder of a valid booking, Sixta had the right to expect that she would fly on the flight and on the date specified on her airplane ticket. Cathay Pacific met her expectations and Sixta was indeed able to complete her flight without any trouble. The absence of any violation to Sixta's right as passenger effectively deprived her of any relief against either Cathay Pacific or Sampaguita Travel.

¹¹ Rollo, pp. 13-14.

¹² *Shell Philippines Exploration B.V. v. Jalos*, G.R. No. 179918, 8 September 2010, 630 SCRA 399, 408 citing *Luzon Development Bank v. Conquilla*, 507 Phil. 509, 524 (2005).

With respect to the three remaining respondents, we rule as follows:

The determination of whether or not the award of damages is correct depends on the nature of the respondents' contractual relations with Cathay Pacific and Sampaguita Travel. It is beyond dispute that respondents were holders of Cathay Pacific airplane tickets and they made the booking through Sampaguita Travel.

Respondents' cause of action against Cathay Pacific stemmed from a breach of contract of carriage. A contract of carriage is defined as one whereby a certain person or association of persons obligate themselves to transport persons, things, or news from one place to another for a fixed price.¹³ Under Article 1732 of the Civil Code, this "persons, corporations, firms, or associations engaged in the business of carrying or transporting passengers or goods or both, by land, water, or air, for compensation, offering their services to the public" is called a common carrier.

Respondents entered into a contract of carriage with Cathay Pacific. As far as respondents are concerned, they were holding valid and confirmed airplane tickets. The ticket in itself is a valid written contract of carriage whereby for a consideration, Cathay Pacific undertook to carry respondents in its airplane for a round-trip flight from Manila to Adelaide, Australia and then back to Manila. In fact, Wilfredo called the Cathay Pacific office in Adelaide one week before his return flight to re-confirm his booking. He was even assured by a staff of Cathay Pacific that he does not need to re-confirm his booking.

In its defense, Cathay Pacific posits that Wilfredo's booking was cancelled because a ticket number was not inputted by Sampaguita Travel, while bookings of Juanita and Michael were not honored for being fictitious. Cathay Pacific clearly blames Sampaguita Travel for not finalizing the bookings for the respondents' return flights. Respondents are not privy to whatever misunderstanding and confusion that may have transpired in their bookings. On its face, the airplane ticket is a valid written contract of carriage. This Court has held that when an airline issues a ticket to a passenger confirmed on a particular flight, on a certain date, a contract of carriage arises, and the passenger has every right to expect that he would fly on that flight and on that date. If he does not, then the carrier opens itself to a suit for breach of contract of carriage.¹⁴

¹³ *Crisostomo v. Court of Appeals*, 456 Phil. 845, 855 (2003).

¹⁴ *Japan Airlines v. Simangan*, G.R. No. 170141, 22 April 2008, 552 SCRA 341, 360.

As further elucidated by the Court of Appeals:

Now, Article 1370 of the Civil Code mandates that “[i]f the terms of a contract are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.” Under Section 9, Rule 130 of the Rules of Court, once the terms of an agreement have been reduced to writing, it is deemed to contain all the terms agreed upon by the parties and no evidence of such terms other than the contents of the written agreement shall be admissible. The terms of the agreement of appellants and appellee Cathay Pacific embodied in the tickets issued by the latter to the former are plain – appellee Cathay Pacific will transport appellants to Adelaide, Australia from Manila via Hongkong on 12 April 1991 and back to Manila from Adelaide, Australia also via Hongkong on 4 May 1997. In addition, the tickets reveal that all appellants have confirmed bookings for their flight to Adelaide, Australia and back to Manila as manifested by the words “Ok” indicated therein. Arlene Ansay, appellee Cathay Pacific’s Reservation Supervisor, validated this fact in her testimony saying that the return flights of all appellants to the Philippines on 4 May 1997 were confirmed as appearing on the tickets. Indubitably, when appellee Cathay Pacific initially refused to transport appellants to the Philippines on 4 May 1997 due to the latter’s lack of reservation, it has, in effect, breached their contract of carriage. Appellants, however, were eventually accommodated and transported by appellee Cathay Pacific to Manila.¹⁵

Cathay Pacific breached its contract of carriage with respondents when it disallowed them to board the plane in Hong Kong going to Manila on the date reflected on their tickets. Thus, Cathay Pacific opened itself to claims for compensatory, actual, moral and exemplary damages, attorney’s fees and costs of suit.

In contrast, the contractual relation between Sampaguita Travel and respondents is a contract for services. The object of the contract is arranging and facilitating the latter’s booking and ticketing. It was even Sampaguita Travel which issued the tickets.

Since the contract between the parties is an ordinary one for services, the standard of care required of respondent is that of a good father of a family under Article 1173 of the Civil Code. This connotes reasonable care consistent with that which an ordinarily prudent person would have observed when confronted with a similar situation. The test to determine whether negligence attended the performance of an obligation is: did the defendant in doing the alleged negligent act use that reasonable care and caution which an

¹⁵ *Rollo*, p. 54.

ordinarily prudent person would have used in the same situation? If not, then he is guilty of negligence.¹⁶

There was indeed failure on the part of Sampaguita Travel to exercise due diligence in performing its obligations under the contract of services. It was established by Cathay Pacific, through the generation of the PNRs, that Sampaguita Travel failed to input the correct ticket number for Wilfredo's ticket. Cathay Pacific even asserted that Sampaguita Travel made two fictitious bookings for Juanita and Michael.

The negligence of Sampaguita Travel renders it also liable for damages.

For one to be entitled to actual damages, it is necessary to prove the actual amount of loss with a reasonable degree of certainty, premised upon competent proof and the best evidence obtainable by the injured party. To justify an award of actual damages, there must be competent proof of the actual amount of loss. Credence can be given only to claims which are duly supported by receipts.¹⁷

We echo the findings of the trial court that respondents failed to show proof of actual damages. Wilfredo initially testified that he personally incurred losses amounting to ₱300,000.00 which represents the amount of the contract that he was supposedly scheduled to sign had his return trip not been cancelled. During the cross-examination however, it appears that the supposed contract-signing was a mere formality and that an agreement had already been hatched beforehand. Hence, we cannot fathom how said contract did not materialize because of Wilfredo's absence, and how Wilfredo incurred such losses when he himself admitted that he entered into said contract on behalf of Parsons Engineering Consulting Firm, where he worked as construction manager. Thus, if indeed there were losses, these were losses suffered by the company and not by Wilfredo. Moreover, he did not present any documentary evidence, such as the actual contract or affidavits from any of the parties to said contract, to substantiate his claim of losses. With respect to the remaining passengers, they likewise failed to present proof of the actual losses they suffered.

Under Article 2220 of the Civil Code of the Philippines, an award of moral damages, in breaches of contract, is in order upon a showing that the

¹⁶ *Crisostomo v. Court of Appeals*, supra note 13 at 856-857.

¹⁷ *OMC Carriers Inc. v. Nabua*, G.R. No. 148974, 2 July 2010, 622 SCRA 624, 640.

defendant acted fraudulently or in bad faith.¹⁸ What the law considers as bad faith which may furnish the ground for an award of moral damages would be bad faith in securing the contract and in the execution thereof, as well as in the enforcement of its terms, or any other kind of deceit. In the same vein, to warrant the award of exemplary damages, defendant must have acted in wanton, fraudulent, reckless, oppressive, or malevolent manner.¹⁹

In the instant case, it was proven by Cathay Pacific that first, it extended all possible accommodations to respondents. They were promptly informed of the problem in their bookings while they were still at the Adelaide airport. Despite the non-confirmation of their bookings, respondents were still allowed to board the Adelaide to Hong Kong flight. Upon arriving in Hong Kong, they were again informed that they could not be accommodated on the next flight because it was already fully booked. They were however allowed to board the next available flight on the following day. Second, upon receiving the complaint letter of respondents, Cathay Pacific immediately addressed the complaint and gave an explanation on the cancellation of their flight bookings.

The Court of Appeals is correct in stating that “what may be attributed to x x x Cathay Pacific is negligence concerning the lapses in their process of confirming passenger bookings and reservations, done through travel agencies. But this negligence is not so gross so as to amount to bad faith.”²⁰ Cathay Pacific was not motivated by malice or bad faith in not allowing respondents to board on their return flight to Manila. It is evident and was in fact proven by Cathay Pacific that its refusal to honor the return flight bookings of respondents was due to the cancellation of one booking and the two other bookings were not reflected on its computerized booking system.

Likewise, Sampaguita Travel cannot be held liable for moral damages. True, Sampaguita Travel was negligent in the conduct of its booking and ticketing which resulted in the cancellation of flights. But its actions were not proven to have been tainted with malice or bad faith. Under these circumstances, respondents are not entitled to moral and exemplary damages. With respect to attorney’s fees, we uphold the appellate court’s finding on lack of factual and legal justification to award attorney’s fees.

¹⁸ *Northwest Airlines Inc. v. Chiong*, G.R. No. 155550, 31 January 2008, 543 SCRA 308, 325 citing *BPI Family Bank v. Franco*, G.R. No. 123498, 23 November 2007, 538 SCRA 184, 203-204.

¹⁹ *Japan Airlines v. Simangan*, supra note 14 at 361-362.

²⁰ *Rollo*, p. 56.

We however sustain the award of nominal damages in the amount of ₱25,000.00 to only three of the four respondents who were aggrieved by the last-minute cancellation of their flights. Nominal damages are recoverable where a legal right is technically violated and must be vindicated against an invasion that has produced no actual present loss of any kind or where there has been a breach of contract and no substantial injury or actual damages whatsoever have been or can be shown.²¹ Under Article 2221 of the Civil Code, nominal damages may be awarded to a plaintiff whose right has been violated or invaded by the defendant, for the purpose of vindicating or recognizing that right, not for indemnifying the plaintiff for any loss suffered.

Considering that the three respondents were denied boarding their return flight from HongKong to Manila and that they had to wait in the airport overnight for their return flight, they are deemed to have technically suffered injury. Nonetheless, they failed to present proof of actual damages. Consequently, they should be compensated in the form of nominal damages.

The amount to be awarded as nominal damages shall be equal or at least commensurate to the injury sustained by respondents considering the concept and purpose of such damages. The amount of nominal damages to be awarded may also depend on certain special reasons extant in the case.²²

The amount of such damages is addressed to the sound discretion of the court and taking into account the relevant circumstances,²³ such as the failure of some respondents to board the flight on schedule and the slight breach in the legal obligations of the airline company to comply with the terms of the contract, *i.e.*, the airplane ticket and of the travel agency to make the correct bookings. We find the award of ₱25,000.00 to the Reyeses correct and proper.

Cathay Pacific and Sampaguita Travel acted together in creating the confusion in the bookings which led to the erroneous cancellation of respondents' bookings. Their negligence is the proximate cause of the

²¹ *Francisco v. Ferrer, Jr.*, 405 Phil. 741, 751 (2001) citing *Areola v. Court of Appeals*, G.R. No. 95641, 22 September 1994, 236 SCRA 643, 654; *Cojuangco, Jr. v. Court of Appeals*, 369 Phil. 41, 60-61 (1991).

²² *PNOC Shipping and Transport Corp. v. Court of Appeals*, 358 Phil. 38, 61 (1998) citing *China Air Lines, Ltd. v. Court of Appeals*, G.R. No. 45985 and G.R. No. 46036, 18 May 1990, 185 SCRA 449, 460; *Robes-Francisco Realty & Development Corporation v. Court of First Instance of Rizal (Branch XXXIV)*, G.R. No. L-41093, 30 October 1978, 86 SCRA 59, 65 citing *Northwest Airlines, Inc. v. Cuenca*, G.R. No. L-22425, 31 August 1965, 14 SCRA 1063, 1065-1066.

²³ *Realda v. New Age Graphics, Inc.*, G.R. No. 192190, 25 April 2012, 671 SCRA 410, 423.

technical injury sustained by respondents. Therefore, they have become joint tortfeasors, whose responsibility for *quasi-delict*, under Article 2194 of the Civil Code, is solidary.

Based on the foregoing, Cathay Pacific and Sampaguita Travel are jointly and solidarily liable for nominal damages awarded to respondents Wilfredo, Juanita and Michael Roy.

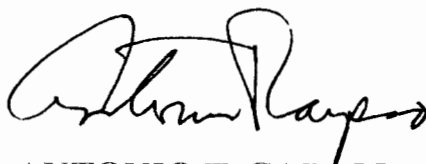
WHEREFORE, the Petition is **DENIED**. The 22 October 2008 Decision of the Court of Appeals is **AFFIRMED** with **MODIFICATION** that Sampaguita Travel is held to be solidarily liable with Cathay Pacific in the payment of nominal damages of ₱25,000.00 each for Wilfredo Reyes, Juanita Reyes, and Michael Roy Reyes. The complaint of respondent Sixta Lapuz is **DISMISSED** for lack of cause of action.

SO ORDERED.



JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

ATTESTATION

I attest 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.


ANTONIO T. CARPIO
Associate Justice
Second Division, Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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
Chief Justice