FIRST DIVISION

[G.R. No. 122191. October 8, 1998]

SAUDI ARABIAN AIRLINES, *petitioner*, *vs*. COURT OF APPEALS, MILAGROS P. MORADA and HON. RODOLFO A. ORTIZ, in his capacity as Presiding Judge of Branch 89, Regional Trial Court of Quezon City, *respondents.*

D E C I S I O N

QUISUMBING, *J.*:

This petition for *certiorari* pursuant to Rule 45 of the Rules of Court seeks to annul and set aside the Resolution[i][1] dated September 27, 1995 and the Decision[ii][2] dated April 10, 1996 of the Court of Appeals[iii][3] in CA-G.R. SP No. 36533,[iv][4] and the Orders[v][5] dated August 29, 1994[vi][6] and February 2, 1995[vii][7] that were issued by the trial court in Civil Case No. Q-93-18394.[viii][8]

The pertinent antecedent facts which gave rise to the instant petition, as stated in the questioned Decision[ix][9], are as follows:

> On January 21, 1988 defendant SAUDIA hired plaintiff as a Flight Attendant for its airlines based in Jeddah, Saudi Arabia. x x x
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> On April 27, 1990, while on a lay-over in Jakarta, Indonesia, plaintiff went to a disco dance with fellow crew members Thamer Al-Gazzawi and Allah Al-Gazzawi, both Saudi nationals. Because it was almost morning when they returned to their hotels, they agreed to have breakfast together at the room of Thamer. When they were in te (sic) room, Allah left on some pretext. Shortly after he did, Thamer attempted to rape plaintiff. Fortunately, a roomboy and several security personnel heard her cries for help and rescued her. Later, the Indonesian police came and arrested Thamer and Allah Al-Gazzawi, the latter as an accomplice.
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> When plaintiff returned to Jeddah a few days later, several SAUDIA officials interrogated her about the Jakarta incident. They then requested her to go back to Jakarta to help arrange the release of Thamer and Allah. In Jakarta, SAUDIA Legal Officer Sirah Akkad and base manager Baharini negotiated with the police for the immediate release of the detained crew members but did not succeed because plaintiff refused to cooperate. She was afraid that she might be tricked into something she did not want because of her inability to understand the local dialect. She also declined to sign a blank paper and a document written in the local dialect. Eventually, SAUDIA allowed plaintiff to return to Jeddah but barred her from the Jakarta flights.
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> Plaintiff learned that, through the intercession of the Saudi Arabian government, the Indonesian authorities agreed to deport Thamer and Allah after two weeks

> of detention. Eventually, they were again put in service by defendant SAUDI (sic). In September 1990, defendant SAUDIA transferred plaintiff to Manila.
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> On January 14, 1992, just when plaintiff thought that the Jakarta incident was already behind her, her superiors requested her to see Mr. Ali Meniewy, Chief Legal Officer of SAUDIA, in Jeddah, Saudi Arabia. When she saw him, he brought her to the police station where the police took her passport and questioned her about the Jakarta incident. Miniewy simply stood by as the police put pressure on her to make a statement dropping the case against Thamer and Allah. Not until she agreed to do so did the police return her passport and allowed her to catch the afternoon flight out of Jeddah.
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> One year and a half later or on June 16, 1993, in Riyadh, Saudi Arabia, a few minutes before the departure of her flight to Manila, plaintiff was not allowed to board the plane and instead ordered to take a later flight to Jeddah to see Mr. Miniewy, the Chief Legal Officer of SAUDIA. When she did, a certain Khalid of the SAUDIA office brought her to a Saudi court where she was asked to sign a document written in Arabic. They told her that this was necessary to close the case against Thamer and Allah. As it turned out, plaintiff signed a notice to her to appear before the court on June 27, 1993. Plaintiff then returned to Manila.
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> Shortly afterwards, defendant SAUDIA summoned plaintiff to report to Jeddah once again and see Miniewy on June 27, 1993 for further investigation. Plaintiff did so after receiving assurance from SAUDIAs Manila manager, Aslam Saleemi, that the investigation was routinary and that it posed no danger to her.
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> In Jeddah, a SAUDIA legal officer brought plaintiff to the same Saudi court on June 27, 1993. Nothing happened then but on June 28, 1993, a Saudi judge interrogated plaintiff through an interpreter about the Jakarta incident. After one hour of interrogation, they let her go. At the airport, however, just as her plane was about to take off, a SAUDIA officer told her that the airline had forbidden her to take flight. At the Inflight Service Office where she was told to go, the secretary of Mr. Yahya Saddick took away her passport and told her to remain in Jeddah, at the crew quarters, until further orders.
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> On July 3, 1993 a SAUDIA legal officer again escorted plaintiff to the same court where the judge, to her astonishment and shock, rendered a decision, translated to her in English, sentencing her to five months imprisonment and to 286 lashes. Only then did she realize that the Saudi court had tried her, together with Thamer and Allah, for what happened in Jakarta. The court found plaintiff guilty of (1) adultery; (2) going to a disco, dancing and listening to the music in violation of Islamic laws; and (3) socializing with the male crew, in contravention of Islamic tradition.x[10]

Facing conviction, private respondent sought the help of her employer, petitioner SAUDIA. Unfortunately, she was denied any assistance. She then asked the Philippine Embassy in Jeddah to help her while her case is on appeal. Meanwhile, to pay for her upkeep, she worked on the domestic flight of SAUDIA, while Thamer and Allah continued to serve in the international flights.xi[11]

Because she was wrongfully convicted, the Prince of Makkah dismissed the case against her and allowed her to leave Saudi Arabia. Shortly before her return to Manila,xii[12] she was terminated from the service by SAUDIA, without her being informed of the cause.

On November 23, 1993, Morada filed a Complaintxiii[13] for damages against SAUDIA, and Khaled Al-Balawi (Al- Balawi), its country manager.

On January 19, 1994, SAUDIA filed an Omnibus Motion To Dismissxiv[14] which raised the following grounds, to wit: (1) that the Complaint states no cause of action against Saudia; (2) that defendant Al-Balawi is not a real party in interest; (3) that the claim or demand set forth in the Complaint has been waived, abandoned or otherwise extinguished; and (4) that the trial court has no jurisdiction to try the case.

On February 10, 1994, Morada filed her Opposition (To Motion to Dismiss)xv[15] Saudia filed a replyxvi[16] thereto on March 3, 1994.

On June 23, 1994, Morada filed an Amended Complaintxvii[17] wherein Al-Balawi was dropped as party defendant. On August 11, 1994, Saudia filed its Manifestation and Motion to Dismiss Amended Complaintxviii[18].

The trial court issued an Orderxix[19] dated August 29, 1994 denying the Motion to Dismiss Amended Complaint filed by Saudia.

From the Order of respondent Judgexx[20] denying the Motion to Dismiss, SAUDIA filed on September 20, 1994, its Motion for Reconsiderationxxi[21] of the Order dated August 29, 1994. It alleged that the trial court has no jurisdiction to hear and try the case on the basis of Article 21 of the Civil Code, since the proper law applicable is the law of the Kingdom of Saudi Arabia. On October 14, 1994, Morada filed her Oppositionxxii[22] (To Defendants Motion for Reconsideration).

In the Replyxxiii[23] filed with the trial court on October 24, 1994, SAUDIA alleged that since its Motion for Reconsideration raised lack of jurisdiction as its cause of action, the Omnibus Motion Rule does not apply, even if that ground is raised for the first time on appeal. Additionally, SAUDIA alleged that the Philippines does not have any substantial interest in the prosecution of the instant case, and hence, without jurisdiction to adjudicate the same.

Respondent Judge subsequently issued another Orderxxiv[24] dated February 2, 1995, denying SAUDIAs Motion for Reconsideration. The pertinent portion of the assailed Order reads as follows:

> Acting on the Motion for Reconsideration of defendant Saudi Arabian Airlines filed, thru counsel, on September 20, 1994, and the Opposition thereto of the plaintiff filed, thru counsel, on October 14, 1994, as well as the Reply therewith of defendant Saudi Arabian Airlines filed, thru counsel, on October 24, 1994,

> considering that a perusal of the plaintiffs Amended Complaint, which is one for the recovery of actual, moral and exemplary damages plus attorneys fees, upon the basis of the applicable Philippine law, Article 21 of the New Civil Code of the Philippines, is, clearly, within the jurisdiction of this Court as regards the subject matter, and there being nothing new of substance which might cause the reversal or modification of the order sought to be reconsidered, the motion for reconsideration of the defendant, is DENIED.
>
> SO ORDERED.xxv[25]

Consequently, on February 20, 1995, SAUDIA filed its Petition for *Certiorari* and Prohibition with Prayer for Issuance of Writ of Preliminary Injunction and/or Temporary Restraining Orderxxvi[26] with the Court of Appeals.

Respondent Court of Appeals promulgated a Resolution with Temporary Restraining Orderxxvii[27] dated February 23, 1995, prohibiting the respondent Judge from further conducting any proceeding, unless otherwise directed, in the interim.

In another Resolutionxxviii[28] promulgated on September 27, 1995, now assailed, the appellate court denied SAUDIAs Petition for the Issuance of a Writ of Preliminary Injunction dated February 18, 1995, to wit:

> The Petition for the Issuance of a Writ of Preliminary Injunction is hereby DENIED, after considering the Answer, with Prayer to Deny Writ of Preliminary Injunction (*Rollo*, p. 135) the Reply and Rejoinder, it appearing that herein petitioner is not clearly entitled thereto (Unciano Paramedical College, *et. Al., v.* Court of Appeals, *et. Al.*, 100335, April 7, 1993, Second Division).
>
> SO ORDERED.

On October 20, 1995, SAUDIA filed with this Honorable Court the instant Petitionxxix[29] for Review with Prayer for Temporary Restraining Order dated October 13, 1995.

However, during the pendency of the instant Petition, respondent Court of Appeals rendered the Decisionxxx[30] dated April 10, 1996, now also assailed. It ruled that the Philippines is an appropriate forum considering that the Amended Complaints basis for recovery of damages is Article 21 of the Civil Code, and thus, clearly within the jurisdiction of respondent Court. It further held that *certiorari* is not the proper remedy in a denial of a Motion to Dismiss, inasmuch as the petitioner should have proceeded to trial, and in case of an adverse ruling, find recourse in an appeal.

On May 7, 1996, SAUDIA filed its Supplemental Petition for Review with Prayer for Temporary Restraining Orderxxxi[31] dated April 30, 1996, given due course by this Court. After both parties submitted their Memoranda,xxxii[32] the instant case is now deemed submitted for decision.

Petitioner SAUDIA raised the following issues:

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The trial court has no jurisdiction to hear and try Civil Case No. Q-93-18394 based on Article 21 of the New Civil Code since the proper law applicable is the law of the Kingdom of Saudi Arabia inasmuch as this case involves what is known in private international law as a conflicts problem. Otherwise, the Republic of the Philippines will sit in judgment of the acts done by another sovereign state which is abhorred.

II.

Leave of court before filing a supplemental pleading is not a jurisdictional requirement. Besides, the matter as to absence of leave of court is now moot and academic when this Honorable Court required the respondents to comment on petitioners April 30, 1996 Supplemental Petition For Review With Prayer For A Temporary Restraining Order Within Ten (10) Days From Notice Thereof. Further, the Revised Rules of Court should be construed with liberality pursuant to Section 2, Rule 1 thereof.

III.

Petitioner received on April 22, 1996 the April 10, 1996 decision in CA-G.R. SP NO. 36533 entitled Saudi Arabian Airlines *v.* Hon. Rodolfo A. Ortiz, *et al*. and filed its April 30, 1996 Supplemental Petition For Review With Prayer For A Temporary Restraining Order on May 7, 1996 at 10:29 a.m. or within the 15-day reglementary period as provided for under Section 1, Rule 45 of the Revised Rules of Court. Therefore, the decision in CA-G.R. SP NO. 36533 has not yet become final and executory and this Honorable Court can take cognizance of this case.xxxiii[33]

From the foregoing factual and procedural antecedents, the following issues emerge for our resolution:

I.

WHETHER RESPONDENT APPELLATE COURT ERRED IN HOLDING THAT THE REGIONAL TRIAL COURT OF QUEZON CITY HAS JURISDICTION TO HEAR AND TRY CIVIL CASE NO. Q-93-18394 ENTITLED MILAGROS P. MORADA V. SAUDI ARABIAN AIRLINES.

II.

WHETHER RESPONDENT APPELLATE COURT ERRED IN RULING THAT IN THE CASE PHILIPPINE LAW SHOULD GOVERN.

Petitioner SAUDIA claims that before us is a conflict of laws that must be settled at the outset. It maintains that private respondents claim for alleged abuse of rights occurred in the Kingdom of Saudi Arabia. It alleges that the existence of a foreign element qualifies the instant case for the application of the law of the Kingdom of Saudi Arabia, by virtue of the *lex loci delicti commissi* rule.xxxiv[34]

On the other hand, private respondent contends that since her Amended Complaint is based on Articles 19xxxv[35] and 21xxxvi[36] of the Civil Code, then the instant case is properly a matter of domestic law.xxxvii[37]

Under the factual antecedents obtaining in this case, there is no dispute that the interplay of events occurred in two states, the Philippines and Saudi Arabia.

As stated by private respondent in her Amended Complaintxxxviii[38] dated June 23, 1994:

> 2. Defendant SAUDI ARABIAN AIRLINES or SAUDIA is a foreign airlines corporation doing business in the Philippines. <u>It may be served with summons and other court processes at Travel Wide Associated Sales (Phils.), Inc., 3rd Floor, Cougar Building, 114 Valero St., Salcedo Village, Makati, Metro Manila.</u>

x x x   x x x   x x x

> 6. Plaintiff learned that, through the intercession of the Saudi Arabian government, the Indonesian authorities agreed to deport Thamer and Allah after two weeks of detention. Eventually, they were again put in service by defendant SAUDIA. <u>In September 1990, defendant SAUDIA transferred plaintiff to Manila.</u>
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> 7. <u>On January 14, 1992, just when plaintiff thought that the Jakarta incident was already behind her, her superiors requested her to see MR. Ali Meniewy, Chief Legal Officer of SAUDIA, in Jeddah, Saudi Arabia.</u> When she saw him, he brought her to the police station where the police took her passport and questioned her about the Jakarta incident. Miniewy simply stood by as the police put pressure on her to make a statement dropping the case against Thamer and Allah. Not until she agreed to do so did the police return her passport and allowed her to catch the afternoon flight out of Jeddah.
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> 8. One year and a half later or on June 16, 1993, in Riyadh, Saudi Arabia, a few minutes before the departure of her flight to Manila, plaintiff was not allowed to board the plane and instead ordered to take a later flight to Jeddah to see Mr. Meniewy, the Chief Legal Officer of SAUDIA. When she did, a certain Khalid of the SAUDIA office brought her to a Saudi court where she was asked to sign a document written in Arabic. They told her that this was necessary to close the case against Thamer and Allah. As it turned out, plaintiff signed a notice to her to appear before the court on June 27, 1993. <u>Plaintiff then returned to Manila</u>.
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> 9. <u>Shortly afterwards, defendant SAUDIA summoned plaintiff to report to Jeddah once again and see Miniewy on June 27, 1993 for further investigation. Plaintiff did so after receiving assurance from SAUDIAs Manila manager, Aslam Saleemi, that the investigation was routinary and that it posed no danger to her.</u>

10. In Jeddah, a SAUDIA legal officer brought plaintiff to the same Saudi court on June 27, 1993. Nothing happened then but on June 28, 1993, a Saudi judge interrogated plaintiff through an interpreter about the Jakarta incident. After one hour of interrogation, they let her go. At the airport, however, just as her plane was about to take off, a SAUDIA officer told her that the airline had forbidden her to take that flight. At the Inflight Service Office where she was told to go, the secretary of Mr. Yahya Saddick took away her passport and told her to remain in Jeddah, at the crew quarters, until further orders.

11. On July 3, 1993 a SAUDIA legal officer again escorted plaintiff to the same court where the judge, to her astonishment and shock, rendered a decision, translated to her in English, sentencing her to five months imprisonment and to 286 lashes. Only then did she realize that the Saudi court had tried her, together with Thamer and Allah, for what happened in Jakarta. The court found plaintiff guilty of (1) adultery; (2) going to a disco, dancing, and listening to the music in violation of Islamic laws; (3) socializing with the male crew, in contravention of Islamic tradition.

12. <u>Because SAUDIA refused to lend her a hand in the case, plaintiff sought the help of the Philippine Embassy in Jeddah</u>. The latter helped her pursue an appeal from the decision of the court. To pay for her upkeep, she worked on the domestic flights of defendant SAUDIA while, ironically, Thamer and Allah freely served the international flights.xxxix[39]

Where the factual antecedents satisfactorily establish the existence of a foreign element, we agree with petitioner that the problem herein could present a conflicts case.

A factual situation that cuts across territorial lines and is affected by the diverse laws of two or more states is said to contain a foreign element. The presence of a foreign element is inevitable since social and economic affairs of individuals and associations are rarely confined to the geographic limits of their birth or conception.xl[40]

The forms in which this foreign element may appear are many.xli[41] The foreign element may simply consist in the fact that one of the parties to a contract is an alien or has a foreign domicile, or that a contract between nationals of one State involves properties situated in another State. In other cases, the foreign element may assume a complex form.xlii[42]

In the instant case, the foreign element consisted in the fact that private respondent Morada is a resident Philippine national, and that petitioner SAUDIA is a resident foreign corporation. Also, by virtue of the employment of Morada with the petitioner Saudia as a flight stewardess, events did transpire during her many occasions of travel across national borders, particularly from Manila, Philippines to Jeddah, Saudi Arabia, and vice versa, that caused a conflicts situation to arise.

We thus find private respondents assertion that the case is purely domestic, imprecise. A *conflicts* problem presents itself here, and the question of jurisdiction[xliii[43]] confronts the court *a quo*.

After a careful study of the private respondents Amended Complaint,[xliv[44]] and the Comment thereon, we note that she aptly predicated her cause of action on Articles 19 and 21 of the New Civil Code.

On one hand, Article 19 of the New Civil Code provides;

> Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice give everyone his due and observe honesty and good faith.

On the other hand, Article 21 of the New Civil Code provides:

> Art. 21. Any person who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for damages.

Thus, in *Philippine National Bank (PNB) vs. Court of Appeals*,[xlv[45]] this Court held that:

> The aforecited provisions on human relations were intended to expand the concept of torts in this jurisdiction by granting adequate legal remedy for the untold number of moral wrongs which is impossible for human foresight to specifically provide in the statutes.

Although Article 19 merely declares a principle of law, Article 21 gives flesh to its provisions. Thus, we agree with private respondents assertion that violations of Articles 19 and 21 are actionable, with judicially enforceable remedies in the municipal forum.

Based on the allegations[xlvi[46]] in the Amended Complaint, read in the light of the Rules of Court on jurisdiction[xlvii[47]] we find that the Regional Trial Court (RTC) of Quezon City possesses jurisdiction over the subject matter of the suit.[xlviii[48]] Its authority to try and hear the case is provided for under Section 1 of Republic Act No. 7691, to wit:

> Section 1. Section 19 of Batas Pambansa Blg. 129, otherwise known as the Judiciary Reorganization Act of 1980, is hereby amended to read as follows:

SEC. 19. Jurisdiction in Civil Cases. Regional Trial Courts shall exercise exclusive jurisdiction:

x x x x x x x x x

(8) In all other cases in which demand, exclusive of interest, damages of whatever kind, attorneys fees, litigation expenses, and costs or the value of the property in controversy

exceeds One hundred thousand pesos (₱100,000.00) or, in such other cases in Metro Manila, where the demand, exclusive of the above-mentioned items exceeds Two hundred Thousand pesos (₱200,000.00). (Emphasis ours)

x x x x x x x x x

And following Section 2 (b), Rule 4 of the Revised Rules of Courtthe venue, Quezon City, is appropriate:

> SEC. 2 Venue in Courts of First Instance. [Now Regional Trial Court]
>
> (a) x x x x x x x x x
>
> (b) Personal actions. All other actions may be commenced and tried where the defendant or any of the defendants resides or may be found, or where the plaintiff or any of the plaintiff resides, at the election of the plaintiff.

Pragmatic considerations, including the convenience of the parties, also weigh heavily in favor of the RTC Quezon City assuming jurisdiction. Paramount is the private interest of the litigant. Enforceability of a judgment if one is obtained is quite obvious. Relative advantages and obstacles to a fair trial are equally important. Plaintiff may not, by choice of an inconvenient forum, vex, harass, or oppress the defendant, e.g. by inflicting upon him needless expense or disturbance. But unless the balance is strongly in favor of the defendant, the plaintiffs choice of forum should rarely be disturbed.xlix[49]

Weighing the relative claims of the parties, the court *a quo* found it best to hear the case in the Philippines. Had it refused to take cognizance of the case, it would be forcing plaintiff (private respondent now) to seek remedial action elsewhere, i.e. in the Kingdom of Saudi Arabia where she no longer maintains substantial connections. That would have caused a fundamental unfairness to her.

Moreover, by hearing the case in the Philippines no unnecessary difficulties and inconvenience have been shown by either of the parties. The choice of forum of the plaintiff (now private respondent) should be upheld.

Similarly, the trial court also possesses jurisdiction over the persons of the parties herein. By filing her Complaint and Amended Complaint with the trial court, private respondent has voluntary submitted herself to the jurisdiction of the court.

The records show that petitioner SAUDIA has filed several motionsl[50] praying for the dismissal of Moradas Amended Complaint. SAUDIA also filed an Answer In *Ex Abundante Cautelam* dated February 20, 1995. What is very patent and explicit from the motions filed, is that SAUDIA prayed for other reliefs under the premises. Undeniably, petitioner SAUDIA has effectively submitted to the trial courts jurisdiction by praying for the dismissal of the Amended Complaint on grounds other than lack of jurisdiction.

As held by this Court in *Republic vs. Ker and Company, Ltd.*:li[51]

> We observe that the motion to dismiss filed on April 14, 1962, aside from disputing the lower courts jurisdiction over defendants person, prayed for dismissal of the complaint on the ground that plaintiffs cause of action has prescribed. By interposing such second ground in its motion to dismiss, Ker and Co., Ltd. availed of an affirmative defense on the basis of which it prayed the court to resolve controversy in its favor. For the court to validly decide the said plea of defendant Ker & Co., Ltd., it necessarily had to acquire jurisdiction upon the latters person, who, being the proponent of the affirmative defense, should be deemed to have abandoned its special appearance and voluntarily submitted itself to the jurisdiction of the court.

Similarly, the case of *De Midgely vs. Ferandos*, held that:

> When the appearance is by motion for the purpose of objecting to the jurisdiction of the court over the person, it must be for the sole and separate purpose of objecting to the jurisdiction of the court. If his motion is for any other purpose than to object to the jurisdiction of the court over his person, he thereby submits himself to the jurisdiction of the court. A special appearance by motion made for the purpose of objecting to the jurisdiction of the court over the person will be held to be a general appearance, if the party in said motion should, for example, ask for a dismissal of the action upon the further ground that the court had no jurisdiction over the subject matter.lii[52]

Clearly, petitioner had submitted to the jurisdiction of the Regional Trial Court of Quezon City. Thus, we find that the trial court has jurisdiction over the case and that its exercise thereof, justified.

As to the choice of applicable law, we note that choice-of-law problems seek to answer two important questions: (1) What legal system should control a given situation where some of the significant facts occurred in two or more states; and (2) to what extent should the chosen legal system regulate the situation.liii[53]

Several theories have been propounded in order to identify the legal system that should ultimately control. Although ideally, all choice-of-law theories should intrinsically advance both notions of justice and predictability, they do not always do so. The forum is then faced with the problem of deciding which of these two important values should be stressed.liv[54]

Before a choice can be made, it is necessary for us to determine under what category a certain set of facts or rules fall. This process is known as characterization, or the doctrine of qualification. It is the process of deciding whether or not the facts relate to the kind of question specified in a conflicts rule.lv[55] The purpose of characterization is to enable the forum to select the proper law.lvi[56]

Our starting point of analysis here is not a legal relation, but a factual situation, event, or operative fact.lvii[57] An essential element of conflict rules is the indication of a test or connecting factor or point of contact. Choice-of-law rules invariably consist of a factual relationship (such as property right, contract claim) and a connecting factor or point of contact, such as the *situs* of the *res*, the place of celebration, the place of performance, or the place of wrongdoing.lviii[58]

Note that one or more circumstances may be present to serve as the possible test for the determination of the applicable law.lix[59] These test factors or points of contact or connecting factors could be any of the following:

> (1) The nationality of a person, his domicile, his residence, his place of sojourn, or his origin;
>
> (2) the seat of a legal or juridical person, such as a corporation;
>
> (3) the *situs* of a thing, that is, the place where a thing is, or is deemed to be situated. In particular, the *lex situs* is decisive when real rights are involved;
>
> (4) **the place where an act has been done, the *locus actus*, such as the place where a contract has been made, a marriage celebrated, a will signed or a tort committed. The *lex loci actus* is particularly important in contracts and torts;**
>
> (5) the place where an act is intended to come into effect, e.g., the place of performance of contractual duties, or the place where a power of attorney is to be exercised;
>
> (6) the intention of the contracting parties as to the law that should govern their agreement, the *lex loci intentionis*;
>
> (7) the place where judicial or administrative proceedings are instituted or done. The *lex fori*the law of the forumis particularly important because, as we have seen earlier, matters of procedure not going to the substance of the claim involved are governed by it; and because the *lex fori* applies whenever the content of the otherwise applicable foreign law is excluded from application in a given case for the reason that it falls under one of the exceptions to the applications of foreign law; and
>
> (8) the flag of a ship, which in many cases is decisive of practically all legal relationships of the ship and of its master or owner as such. It also covers contractual relationships particularly contracts of affreightment.lx[60] (Underscoring ours.)

After a careful study of the pleadings on record, including allegations in the Amended Complaint deemed submitted for purposes of the motion to dismiss, we are convinced that there is reasonable basis for private respondents assertion that although she was already working in Manila, petitioner brought her to Jeddah on the pretense that she would merely testify in an investigation of the charges she made against the two SAUDIA crew members for the attack on her person while they were in Jakarta. As it turned out, she was the one made to face trial for very serious charges, including adultery and violation of Islamic laws and tradition.

There is likewise logical basis on record for the claim that the handing over or turning over of the person of private respondent to Jeddah officials, petitioner may have acted beyond its duties as employer. Petitioners purported act contributed to and amplified or even proximately caused additional humiliation, misery and suffering of private respondent. Petitioner thereby allegedly facilitated the arrest, detention and prosecution of private respondent under the guise of petitioners authority as employer, taking advantage of the trust, confidence and faith she reposed upon it. As purportedly found by the Prince of Makkah, the alleged conviction and imprisonment of private respondent was wrongful. But these capped the injury or harm allegedly inflicted upon her person and reputation, for which petitioner could be liable as claimed, to provide compensation or redress for the wrongs done, once duly proven.

Considering that the complaint in the court *a quo* is one involving torts, the connecting factor or point of contact could be the place or places where the tortious conduct or *lex loci actus* occurred. And applying the torts principle in a conflicts case, we find that the Philippines could be said as a *situs* of the tort (the place where the alleged tortious conduct took place). This is because it is in the Philippines where petitioner allegedly deceived private respondent, a Filipina residing and working here. According to her, she had honestly believed that petitioner would, in the exercise of its rights and in the performance of its duties, act with justice, give her her due and observe honesty and good faith. Instead, petitioner failed to protect her, she claimed. That certain acts or parts of the injury allegedly occurred in another country is of no moment. For in our view what is important here is the place where the over-all harm or the fatality of the alleged injury to the person, reputation, social standing and human rights of complainant, had lodged, according to the plaintiff below (herein private respondent). All told, it is not without basis to identify the Philippines as the *situs* of the alleged tort.

Moreover, with the widespread criticism of the traditional rule of *lex loci delicti commissi*, modern theories and rules on tort liability[lxi][61] have been advanced to offer fresh judicial approaches to arrive at just results. In keeping abreast with the modern theories on tort liability, we find here an occasion to apply the State of the most significant relationship rule, which in our view should be appropriate to apply now, given the factual context of this case.

In applying said principle to determine the State which has the most significant relationship, the following contacts are to be taken into account and evaluated according to their relative importance with respect to the particular issue: (a) the place where the injury occurred; (b) the place where the conduct causing the injury occurred; (c) the domicile, residence, nationality, place of incorporation and place of business of the parties, and (d) the place where the relationship, if any, between the parties is centered.[lxii][62]

As already discussed, there is basis for the claim that over-all injury occurred and lodged in the Philippines. There is likewise no question that private respondent is a resident Filipina national, working with petitioner, a resident foreign corporation engaged here in the business of international air carriage. Thus, the relationship between the parties was centered here, although it should be stressed that this suit is not based on mere labor law violations. From the record, the claim that the Philippines has the most significant contact with the matter in this dispute,lxiii[63] raised by private respondent as plaintiff below against defendant (herein petitioner), in our view, has been properly established.

Prescinding from this premise that the Philippines is the *situs* of the tort complaint of and the place having the most interest in the problem, we find, by way of recapitulation, that the Philippine law on tort liability should have paramount application to and control in the resolution of the legal issues arising out of this case. Further, we hold that the respondent Regional Trial Court has jurisdiction over the parties and the subject matter of the complaint; the appropriate venue is in Quezon City, which could properly apply Philippine law. Moreover, we find untenable petitioners insistence that [s]ince private respondent instituted this suit, she has the burden of pleading and proving the applicable Saudi law on the matter.lxiv[64] As aptly said by private respondent, she has no obligation to plead and prove the law of the Kingdom of Saudi Arabia since her cause of action is based on Articles 19 and 21 of the Civil Code of the Philippines. In her Amended Complaint and subsequent pleadings she never alleged that Saudi law should govern this case.lxv[65] And as correctly held by the respondent appellate court, considering that it was the petitioner who was invoking the applicability of the law of Saudi Arabia, thus the burden was on it [petitioner] to plead and to establish what the law of Saudi Arabia is.lxvi[66]

Lastly, no error could be imputed to the respondent appellate court in upholding the trial courts denial of defendants (herein petitioners) motion to dismiss the case. Not only was jurisdiction in order and venue properly laid, but appeal after trial was obviously available, and the expeditious trial itself indicated by the nature of the case at hand. Indubitably, the Philippines is the state intimately concerned with the ultimate outcome of the case below not just for the benefit of all the litigants, but also for the vindication of the countrys system of law and justice in a transnational setting. With these guidelines in mind, the trial court must proceed to try and adjudge the case in the light of relevant Philippine law, with due consideration of the foreign element or elements involved. Nothing said herein, of course, should be construed as prejudging the results of the case in any manner whatsoever.

WHEREFORE, the instant petition for certiorari is hereby DISMISSED. Civil Case No. Q-93-18394 entitled Milagros P. Morada *vs*. Saudi Arabia Airlines is hereby REMANDED to Regional Trial Court of Quezon City, Branch 89 for further proceedings.

SO ORDERED.

Davide, Jr., (Chairman), Bellosillo, Vitug, and Panganiban, JJ., concur.

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i[1] Annex A, PETITION, October 13, 1995, *rollo*, p. 36.

ii[2] Annex A, SUPPLEMENTAL PETITION, April 30, 1996, *rollo*, pp. 88-102.

iii[3] Penned by Associate Justice Bernardo Ll. Salas, and concurred in by Associate Justice Jorge S. Imperial and Associate Justice Pacita Caizares-Nye.

iv[4] Entitled Saudi Arabian Airlines *vs*. Hon. Judge Rodolfo A. Ortiz, in his capacity as Presiding Judge of Branch 89 of the Regional Trial Court of Quezon City and Milagros P. Morada.

v[5] Issued by respondent Judge Hon. Rodolfo A. Ortiz of Branch 89, Regional Trial Court of Quezon City.

vi[6] Annex B, PETITION, October 13, 1995, *rollo*, pp. 37-39.

vii[7] Annex B, PETITION, October 13, 1995, *rollo*, p. 40.

viii[8] Entitled Milagros P. Morada *vs*. Saudi Arabian Airlines.

ix[9] *Supra,* note 2.

x[10] Decision, pp. 2-4; *See Rollo*, pp. 89-91.

xi[11] Private respondent's Comment; *rollo*, p. 50.

xii[12] *Ibid*., at pp. 50-51.

xiii[13] Dated November 19, 1993 and docketed as Civil Case No. Q-93-18394, Branch 89, Regional Trial Court of Quezon City.

xiv[14] Dated January 14, 1994.

xv[15] Dated February 4, 1994.

xvi[16] Reply dated March 1, 1994.

xvii[17] Records, pp. 65-84.

xviii[18] *Rollo*, p. 65.

xix[19] *Supra,* note 6.

xx[20] Hon. Rodolfo A. Ortiz.

xxi[21] Dated September 19, 1994.

xxii[22] Records, pp. 108-116.

xxiii[23] Records, pp. 117-128.

xxiv[24] *Supra,* note 7.

xxv[25] *Ibid*.

xxvi[26] Dated February 18, 1995; *see supra* note 4.

xxvii[27] *Supra,* note 7.

xxviii[28] Records, p. 180.

xxix[29] *Rollo*, pp. 1-44.

xxx[30] *Supra,* note 2.

xxxi[31] *Rollo*, pp. 80-86.

xxxii[32] Memorandum for Petitioner dated October 9, 1996; *rollo*, pp. 149-180; and Memorandum for Private Respondent, 30 October 1996, *rollo*, pp. 182-210.

xxxiii[33] *Rollo*, pp. 157-159. All caps in the original.

xxxiv[34] Memorandum for Petitioner, p. 14, *rollo*, p. 162;.

xxxv[35] Art. 19. Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

xxxvi[36] Art. 21. Any person who wilfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damages.

xxxvii[37] Memorandum for Private Respondent, p. 9, *rollo*, p. 190.

xxxviii[38] Records, pp. 65-71.

xxxix[39] *Supra,* note 17, at pp. 65-68.

xl[40] Salonga, *Private International Law*, 1995 edition, p. 3.

xli[41] *Ibid*., citing Cheshire and North, *Private International Law*, p. 5 by P.M. North and J.J. Faucett (Butterworths; London, 1992).

xlii[42] *Ibid*.

xliii[43] Paras, *Philippine Conflict of Laws*, sixth edition (1984), p. 24, citing Leflar, *The Law of Conflict of Laws,* pp. 5-6.

xliv[44] *Supra,* note 17.

xlv[45] 83 SCRA 237, 247.

xlvi[46] *Supra,* note at 17, at p. 6. Morada prays that judgment be rendered against Saudia, ordering it to pay: (1) not less than ₱250,000.00 as actual damages; (2) ₱4 million in moral damages; (3) ₱500,000.00 in exemplary damages; and (4) ₱500,000.00 in attorneys fees.

xlvii[47] Baguioro *v.* Barrios, 77 Phil. 120.

xlviii[48] Jurisdiction over the subject matter is conferred by law and is defined as the authority of a court to hear and decide cases of the general class to which the proceedings in question belong. (Reyes *v.* Diaz, 73 Phil. 484,487)

xlix[49] *Supra,* note 37, p. 58, citing Gulf Oil Corporation *v.* Gilbert, 350 U.S. 501, 67 Sup. Ct. 839 (1947).

l[50] Omnibus Motion to Dismiss dated January 14, 1994; Reply (to Plaintiffs Opposition) dated February 19, 1994; Comment (to Plaintiffs Motion to Admit Amended Complaint dated June 23, 1994) dated July 20, 1994; Manifestation and Motion to Dismiss Amended Complaint dated June 23, 1994 under date August 11, 1994; and Motion for Reconsideration dated September 19, 1994.

li[51] 18 SCRA 207, 213-214.

lii[52] 64 SCRA 23, 31.

liii[53] Coquia and Pangalangan, *Conflict of Laws*, 1995 edition, p. 65, citing Von Mehren, *Recent Trends in Choice-of-Law Methodology*, 60 Cornell L. Rev. 927 (1975).

liv[54] *Ibid.*

lv[55] *Supra,* note 40 at p. 94, citing Falconbridge, *Essays on the Conflict of Laws*, p. 50.

lvi[56] *Ibid*.

lvii[57] *Supra,* note 37, at p. 136; cf. Mussbaum, *Principle of Private International Law*, p. 173; and Rabel, *The Conflict of Laws: A Comparative Study*, pp. 51-52.

lviii[58] *Supra,* note 37, at p. 137.

lix[59] *Ibid*.

lx[60] *Supra*, note 37, at pp. 138-139.

lxi[61] Includes the (1) German rule of elective concurrence; (2) State of the most significant relationship rule (the Second Restatement of 1969); (3) State interest analysis; and (4) Cavers Principle of Preference.

lxii[62] *Supra,* note 37, p. 396.

lxiii[63] *Supra,* note 59, at p. 79, citing Ruben *v.* Irving Trust Co., 305 N.Y. 288, 305, 113 N.E. 2d 424, 431.

lxiv[64] Memorandum for Petitioner, p. 22; *Rollo*, p. 170.

lxv[65] Memorandum for Private Respondent, pp. 21-22; *rollo*, pp. 202-203.

lxvi[66] CA Decision, p. 10; *rollo*, p. 97.