Republic of the Philippines
Supreme Court
Baguio City

EN BANC

PATRICIA HALAGUEÑA, MA. ANGELITA L. PULIDO, MA. TERESITA P. SANTIAGO, MARIANNE V. KATINDIG, BERNADETTA A. CABALQUINTO, LORNA B. TUGAS, MARY CHRISTINE A. VILLARETE, CYNTHIA A. STEHMEIER, ROSE ANA G. VICTA, NOEMI R. CRESENCIO and other female flight attendants of PHILIPPINE AIRLINES, Petitioners, -versus- **PHILIPPINE AIRLINES, INC.,** Respondent.	**G.R. No. 243259** Present: GESMUNDO, *CJ*, LEONEN, CAGUIOA, HERNANDO*, LAZARO-JAVIER, INTING, ZALAMEDA, LOPEZ, M., GAERLAN, ROSARIO, LOPEZ, J.**, DIMAAMPAO**, MARQUEZ, KHO, JR., and SINGH, *JJ.* **Promulgated:** January 10, 2023

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DECISION

LEONEN, *J.*:

A stipulation in the Collective Bargaining Agreement providing for the compulsory retirement of female cabin attendants at 55 years old and male

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* On leave.
** No Part.

cabin attendants at 60 years old, lacks basis, discriminates against women, and is void for being contrary to law and public policy.

This Court resolves the Petition for Review on Certiorari[1] assailing the May 31, 2018 Decision[2] and November 19, 2018 Resolution[3] of the Court of Appeals which reversed and set aside the May 22, 2015 Decision[4] and October 9, 2015 Resolution[5] of the Regional Trial Court.

Patricia Halagueña, Ma. Angelita L. Pulido, Ma. Teresita P. Santiago, Marianne[6] V. Katindig, Bernadetta[7] A. Cabalquinto, Lorna B. Tugas, Mary Christine A. Villarete, Cynthia A. Stehmeier,[8] Rose Ana[9] G. Victa, Noemi R. Cresencio and other female flight attendants of Philippine Airlines, Inc. (collectively, Halagueña et al.) are members of Flight Attendants and Stewards Association of the Philippines (FASAP). It is the sole and exclusive bargaining representative of Philippine Airlines, Inc. (PAL) flight attendants, stewards, and pursers hired on different dates prior to November 22, 1996.[10]

On July 11, 2001, PAL and FASAP entered into a Collective Bargaining Agreement (CBA) incorporating the terms and conditions of employment of cabin attendants for the years 2000 to 2005 (PAL-FASAP 2000-2005 CBA).[11]

On July 29, 2004, Halagueña et al. filed a Petition for Declaratory Relief with Prayer for Issuance of Temporary Restraining Order and Writ of Preliminary Injunction with the Regional Trial Court of Makati City, Branch 147,[12] enjoining PAL from enforcing Section 144(A)[13] of the PAL-FASAP

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1 *Rollo*, pp. 12–45.

2 Id. at 47–66. The May 31, 2018 Decision in CA-G.R. CV No. 107085 was penned by Associate Justice Jhosep Y. Lopez (now a Member of this Court) and concurred in by Associate Justices Japar B. Dimaampao (now a Member of this Court) and Manuel M. Barrios of the Seventh Division, Court of Appeals, Manila.

3 Id. at 68–72. The November 19, 2018 Resolution was penned by Associate Justice Jhosep Y. Lopez and concurred in by Associate Justices Japar B. Dimaampao and Manuel M. Barrios of the Former Seventh Division, Court of Appeals, Manila.

4 Id. at 120–130. The Decision in Civil Case No. 04-886 was penned by Presiding Judge Winlove M. Dumayas of the Regional Trial Court of Makati City, Branch 59.

5 Id. at 131–132.

6 Sometimes referred to as "Arianne."

7 Sometimes referred to a "Bernadette."

8 Sometimes spelled as "Stehmeir."

9 Sometimes spelled as "Anna."

10 *Rollo*, p. 48. *Halagueña et al. v. Philippine Airlines, Inc.*, 617 Phil. 502 (2009) [Per J. Peralta, Third Division].

11 Id. at 83–84.

12 Docketed as Civil Case No. 04-886.

13 *Rollo*, pp. 117–118. Section 144(A) of the PAL-FASAP 2000-2005 CBA provides:

Section 144 Retirement Benefits

A. For the Cabin Attendants hired before 22 November 1996:

. . . .

3. Compulsory Retirement

Subject to the grooming standards provisions of this Agreement, compulsory retirement shall be fifty-five (55) for females and sixty (60) for males. Retirement pay for compulsory retirement shall be:

a. One and one-half (1 ½) month's basic salary for every year of service based on their basic salaries upon reaching the age of fifty (50) for females or fifty-five (55) for males.

2000-2005 CBA. They sought the nullity of Section 144(A) for discriminating against female flight attendants in violation of the Constitution, the Labor Code, and the Convention on the Elimination of All Forms of Discrimination Against Women.[14]

PAL initially claimed that the Regional Trial Court lacked jurisdiction as the petition is a labor case disguised as a special civil action. However, the Regional Trial Court dismissed this claim in an August 9, 2004 Order and upheld its jurisdiction.[15]

On August 10, 2004, the Regional Trial Court issued a temporary restraining order and ordered PAL to restore the status quo of Bernadetta A. Cabalquinto (Cabalquinto) who will be affected by the implementation of the provision. PAL heeded this and did not retire Calbaquinto but put her on an "off-flight flight" status. On September 27, 2004 the trial court granted the prayer for injunction.[16]

Their motion for reconsideration having been denied, PAL filed a Petition for Certiorari with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction before the Court of Appeals.[17]

In an August 31, 2005 Decision, the Court of Appeals ruled in favor of PAL and declared that the trial court had no jurisdiction over the petition for declaratory relief, consequently annulling and setting aside all the proceedings, orders, and processes before it.[18] In a March 7, 2007 Resolution, the Court of Appeals denied the motion for reconsideration filed by Halagueña, et al. prompting them to file an appeal with the Supreme Court, and causing the case before the trial court to be archived.[19]

In *Halagueña et al. v. Philippine Airlines, Inc.*,[20] docketed as G.R. No. 172013 and promulgated on October 2, 2009, this Court, through the Third Division, reversed and set aside the Court of Appeals' decision and directed the Regional Trial Court of Makati City, Branch 147 to continue the proceedings in Civil Case No. 04-886 with deliberate dispatch. There, this Court held that the jurisdiction to determine whether Section 144(A) of the PAL-FASAP 2000-2005 CBA is discriminatory, and whether it violates the Constitution, statutes, and treaties, was properly lodged with the Regional Trial Court.

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b. Plus one-half (1/2) month's basic salary for every year of service based on their final monthly basic salary for the year of services rendered after reaching the age of fifty (50) for females or age fifty-five (55) for males.

14 Id. at 124.

15 Id. at 125.

16 Id. at 124. The case was docketed CA-G.R. SP. No. 86813.

17 Id.

18 Id. at 18.

19 Id. at 18–19.

20 617 Phil. 502 (2009) [Per J. Peralta, Third Division].

Accordingly, Halagueña et al. moved for the revival of the archived case before the trial court and for the issuance of a writ of preliminary injunction. However, the trial court held in abeyance any further proceedings until the decision of the Supreme Court in G.R. No. 172013 attained finality. After PAL's Motion for Reconsideration was denied with finality, the trial court, in a February 18, 2010 Order, granted Halagueña et al.'s Motion to Revive with Urgent Motion for the Issuance of the Writ of Preliminary Injunction.[21]

On March 8, 2010, the trial court denied the Motion for Status Quo Order filed by Halagueña et al.[22] However, on July 19, 2010, it granted the application for the issuance of a writ of preliminary injunction which was issued on July 30, 2010.[23]

Halagueña et al. thereafter filed a Motion for Partial Reconsideration praying that the cabin attendants affected by the questioned compulsory retirement provision be reinstated and given flight schedules. They also filed a Supplemental Motion listing names of retired cabin attendants and praying for their reinstatement. PAL filed its opposition to the said Motions which Halagueña et al. countered with a Reply.[24]

In its December 2, 2010 Order, the trial court granted the lifting of the writ of preliminary injunction subject to PAL's posting of a bond and denied the motions filed by Halagueña et al. for lack of merit.[25]

In subsequent Orders, the trial court approved the counter bond posted by PAL and ordered the lifting and setting aside of the writ of preliminary injunction.[26]

In its May 22, 2015 Decision, the trial court granted the petition for declaratory relief and declared Section 144(A) of the PAL-FASAP 2000-2005 CBA null and void for being discriminatory. The dispositive portion of which reads:

> **WHEREFORE,** premises considered, the *"Petition for Declaratory Relief with Prayer for Issuance of Temporary Restraining Order [and] Writ for Preliminary Injunction"* is hereby GRANTED. Judgment is hereby rendered in favor of petitioners Patricia Halagueña, Ma. Angelita L. Pulido, Ma. Teresita P. Santiago, Marianne V. Katindig, Bernadette A. Cabalquinto, Lorna B. Tugas, Mary Christine A. Villarte,

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21 Id. at 51.
22 Id.
23 Id. at 51–52.
24 Id. at 52.
25 Id. at 52–53.
26 Id. at 53.

> Cythia A. Stehmeier, Rose Ana G. Victa, Noemi R. Cersencio and other female flight attendants of Philippine Airlines and against respondent Philippine Airlines, Inc., as follows:
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> a. Declaring Section 144 of the PAL-FASAL 200[0]-2005 CBA provision null and void for being discriminatory;
> b. Ordering respondent PAL to pay petitioners the following sums:
> 1. Php 100,000.00 for each of the petitioners in this case; and
> 2. Php 200,000.00 as Attorney's Fees.
> c. Pay the cost of the suit.
>
> **SO ORDERED.**[27] (Emphasis in the original)

In ruling favorably for Halagueña et al., the trial court held that Section 144(A) of the PAL-FASAP 2000-2005 CBA violates the Constitution, the Labor Code, and the Convention on the Elimination of all Forms of Discrimination against Women for being discriminatory against women flight attendants.[28] The trial court ruled that Halagueña et al.'s rights cannot be bargained away and found that PAL failed to show any difference between male and female cabin attendants which would justify the implementation of the assailed provision.[29] In addition, the trial court held that the petition for declaratory relief was properly filed as all its requisites were present in the case.[30] Furthermore, the trial court found that Halagueña et al. are entitled to the award of moral damages and attorney's fees.[31]

In its October 9, 2015 Resolution, the trial court denied the Motion for Reconsideration filed by PAL for utter lack of merit.[32]

In a May 31, 2018 Decision, the Court of Appeals reversed and set aside the decision of the Regional Trial Court, and ruled in favor of PAL, to wit:

> **WHEREFORE,** in view of the foregoing disquisitions, the instant appeal is **GRANTED.** The Decision dated 22 May 2015 and Resolution dated 9 October 2015 of the Regional Trial Court of Makati City, Branch 59 in Civil Case No. 04-886 are hereby **REVERSED** and **SET ASIDE.** A new one is hereby issued declaring Section 144 of the PAL-FASAP 2000-2005 CBA provision **VALID** and **BINDING.** Accordingly, the Petition for Declaratory Relief is **DISMISSED.**
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> **SO ORDERED.**[33] (Emphasis in the original)

After considering the paramount importance of the issue involved, the Court of Appeals relaxed its procedural rules and ruled on the merits despite

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27 Id. at 130.
28 Id. at 126–127.
29 Id. at 127–128.
30 Id. at 128–129.
31 Id. at 129.
32 Id. at 132.
33 Id. at 65.

the belated filing of PAL's appellant's brief.[34] The Court of Appeals ruled that since FASAP voluntarily assented to the questioned provision, there is a reasonable presumption that it is beneficial and acceptable to its members and that the members agree to abide by its provisions.[35] Moreover, it found that, historically, there has always been a difference in the compulsory retirement age for male and female flight attendants which was mutually agreed upon by PAL and FASAP.[36] The Court of Appeals ruled that the questioned provision is a valid and binding undertaking, as there was nothing illegal in the retirement clause warranting its nullification.[37] It likewise held that Halagueña et al. failed to prove with competent evidence that the assailed provision is void and discriminatory or that they were coerced to ratify the PAL-FASAP 2000-2005 CBA.[38]

In a November 19, 2018 Resolution, the Court of Appeals denied the Motion for Reconsideration filed by Halagueña et al. for lack of merit.[39]

Thus, petitioners filed the present Petition for Review on Certiorari on January 11, 2019,[40] claiming they were able to prove through various documentary and testimonial evidence that Section 144(A) of the PAL-FASAP 2000-2005 CBA is discriminatory against female flight attendants.[41]

Petitioners allege that respondent failed to show any difference between male and female cabin attendants either in qualification or function so as to justify the adoption of the assailed provision, and that they cannot comprehend the rationale for such distinction. Contrary to respondent's insistence that the PAL-FASAP 2000-2005 CBA has been duly agreed upon, they argue that their right against discrimination cannot be bargained away by their male-denominated union representatives, who failed to protect their interests and even testified against them.[42] Petitioners allege that since Section 144(A) is contrary to law and public policy, it is void and cannot be ratified under Article 1409 of the Civil Code, despite it being the practice of the company ever since.[43] Petitioners claim that respondent is estopped from upholding the validity of the assailed provision considering that the PAL-FASAP 2000-2005 CBA itself has a non-discriminatory clause. Lastly, they claim that they are not estopped from assailing the provision just because they received their retirement benefits when they were, in fact, forced to retire.[44]

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34 Id. at 57.
35 Id. at 61.
36 Id. at 60–61.
37 Id. at 63 and 65.
38 Id. at 65.
39 Id. at 72.
40 Id. at 12.
41 Id. at 25–26.
42 Id. at 26 and 30.
43 Id. at 31–33.
44 Id. at 35–36.

In its Comment,[45] respondent argues that Section 144(A) of the PAL FASAP 2000-2005 CBA complies with the Labor Code and is not discriminatory against women, since female flight attendants belong to a special class of occupation requiring special standards for retirement.[46] Respondent claims that the retirement provision was validly negotiated by the parties, voluntarily agreed upon, and ratified by FASAP members.[47] Respondent posits that the assailed provision did not contain any legal infirmity, and has been repeatedly adopted and carried over in succeeding CBAs.[48] Further, respondent claims that petitioners are estopped from questioning the validity of the retirement provision as they accepted its reasonableness when it was carried over in succeeding renewals of the CBA.[49]

Petitioners manifested that they are adopting their petition as their reply to the comment,[50] which the Court noted in a November 11, 2020 Resolution.

The sole issue for this Court's resolution is whether Section 144(A) of the 2000-2005 PAL-FASAP CBA is discriminatory against women, and thus void for being contrary to the Constitution, laws, and international conventions.

This Court grants the Petition.

While the issue of whether Section 144(A) is discriminatory is a question of fact[51] generally not cognizable in a Rule 45 petition,[52] factual findings by the lower courts—which are usually binding and conclusive—may be reviewed in exceptional cases,[53] such as in this case where the findings of the Court of Appeals are contrary to those of the Regional Trial Court.

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45 Id. at 184–202.
46 Id. at 186–187.
47 Id. at 187–188.
48 Id. at 189–190.
49 Id. at 190.
50 Id. at 206–207.
51 *Halagueña et al. v. Philippine Airlines, Inc.*, 617 Phil. 502 (2009) [Per J. Peralta, Third Division].
52 RULES OF COURT, Rule 45, sec. 1.
53 *Pascual v. Burgos*, 776 Phil. 167, 182–183 (2016) [Per J. Leonen, Second Division] cites the following exceptions: (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

I

Retirement has been consistently defined as "the result of a bilateral act of the parties, a voluntary agreement between the employer and the employee whereby the latter, after reaching a certain age, agrees to sever his or her employment with the former."[54] There are three types of retirement plans available to an employee: *first* is compulsory and contributory, which is provided for in Republic Act No. 8282[55] for those in the private sector and Republic Act No. 8291[56] for those in the government; *second* is that voluntarily agreed upon between the employer and the employees in collective bargaining agreements or other agreements between them; and *third* is that voluntarily given by the employer, expressly as announced in company policies or impliedly as in a failure to contest the employee's claim for retirement benefits.[57]

The second and third types of retirement are governed by Article 302 of the Labor Code:

> ARTICLE 302. [287] *Retirement.* — Any employee may be retired upon reaching the retirement age established in the collective bargaining agreement or other applicable employment contract.
>
> In case of retirement, the employee shall be entitled to receive such retirement benefits as he may have earned under existing laws and any collective bargaining agreement and other agreements: Provided, however, That an employee's retirement benefits under any collective bargaining and other agreements shall not be less than those provided therein.
>
> In the absence of a retirement plan or agreement providing for retirement benefits of employees in the establishment, an employee upon reaching the age of sixty (60) years or more, but not beyond sixty-five (65) years which is hereby declared the compulsory retirement age, who has served at least five (5) years in the said establishment, may retire and shall be entitled to retirement pay equivalent to at least one-half (1/2) month salary for every year of service, a fraction of at least six (6) months being considered as one whole year.

Article 302 [287] of the Labor Code allows employers and employees to establish an early retirement age option mutually agreed upon by them:

> Acceptance by the employees of an early retirement age option must be explicit, voluntary, free, and uncompelled. While an employer may unilaterally retire an employee earlier than the legally permissible ages

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54 *United Doctors Medical Center v. Bernadas,* 822 Phil. 718, 727–728 (2017) [Per J. Leonen, Third Division]. (Citations omitted)

55 Social Security Law of 1997.

56 The Government Service Insurance System Act (1997).

57 *United Doctors Medical Center v. Bernadas,* 822 Phil. 718 (2017) [Per J. Leonen, Third Division]; and *Odchimar Gerlach v. Reuters Limited Phils.,* 489 Phil. 501 (2005) [Per J. Sandoval-Gutierrez, Third Division].

> under the Labor Code, this prerogative must be exercised pursuant to a mutually instituted early retirement plan. In other words, only the implementation and execution of the option may be unilateral, but not the adoption and institution of the retirement plan containing such option. For the option to be valid, the retirement plan containing it must be voluntarily assented to by the employees or at least by a majority of them through a bargaining representative.[58]

This Court has upheld various retirement plans setting the retirement age lower than the compulsory or optional retirement age provided in the Labor Code upon meeting certain requirements as contained in a CBA or in an employment contract or agreement between the employer and employees.[59] The rationale behind this was discussed in *Pantranco North Express, Inc. v. National Labor Relations Commission*:[60]

> In almost all countries today, early retirement, i.e., before age 60, is considered a reward for services rendered since it enables an employee to reap the fruits of his labor — particularly retirement benefits, whether lump-sum or otherwise — at an earlier age, when said employee, in presumably better physical and mental condition, can enjoy them better and longer. As a matter of fact, one of the advantages of early retirement is that the corresponding retirement benefits, usually consisting of a substantial cash windfall, can early on be put to productive and profitable uses by way of income-generating investments, thereby affording a more significant measure of financial security and independence for the retiree who, up till then, had to contend with life's vicissitudes within the parameters of his fortnightly or weekly wages. Thus we are now seeing many CBAs with such early retirement provisions. And the same cannot be considered a diminution of employment benefits.[61]

However, it must be emphasized that the option to retire below the ages provided by law must be assented to and accepted by the employee, or it will be an adhesive imposition resulting in deprivation of property without due process of law.[62] In *Barroga v. Quezon Colleges*,[63] this Court held that the core premise of retirement is being a voluntary agreement and an involuntary retirement amounts to discharge:

> [T]he main feature of retirement is that it is the result of a bilateral act of both the employer and the employee based on their voluntary agreement that upon reaching a certain age, the employee agrees to sever his employment. Since the core premise of retirement is that it is a voluntary agreement, it necessarily follows that if the intent to retire is not clearly

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58 *Cercado v. UNIPROM, Inc.*, 647 Phil. 603, 612 (2010), [Per J. Nachura, Second Division].

59 Id. citing *Progressive Development Corporation v. NLRC*, 647 Phil. 603 (2010) [Per J. Nachura, Second Division]; *Cainta Catholic School v. Cainta Catholic School Employees Union (CCSEU)*, 523 Phil. 134 (2006) [Per J. Tinga, Third Division]; *Philippine Airlines, Inc. (PAL) v. Airline Pilots Association of the Philippines (APAP)*, 424 Phil. 356 (2002) [Per J. Ynares-Santiago, First Division]; and *Pantranco North Express, Inc. v. National Labor Relations Commission*, 328 Phil. 470 (1996) [Per J. Panganiban, Third Division].

60 328 Phil. 470 (1996) [Per J. Panganiban, Third Division].

61 Id. at 482–483.

62 *Cercado v. UNIPROM, Inc.*, 647 Phil. 603 (2010) [Per J. Nachura, Second Division].

63 G.R. No. 235572, December 5, 2018 [Per J. Perlas-Bernabe, Second Division].

established or if the retirement is involuntary, it is to be treated as a discharge.

The line between "voluntary" and "involuntary" retirement is thin but it is one which case law had already drawn. On the one hand, voluntary retirement cuts the employment ties leaving no residual employer liability; on the other, involuntary retirement amounts to a discharge, rendering the employer liable for termination without cause. The employee's intent is decisive. In determining such intent, the relevant parameters to consider are the fairness of the process governing the retirement decision, the payment of stipulated benefits, and the absence of badges of intimidation or coercion.[64] (Citations omitted)

Furthermore, a stipulation, clause, term, or condition in the CBA if contrary to law, morals, good customs, public order, or public policy is void.[65] Even if the retirement provision is embodied in the CBA, it may still be voided if contrary to law, good customs, public order, or public policy, thus:

It should not be taken to mean that retirement provisions agreed upon in the CBA are absolutely beyond the ambit of judicial review and nullification. A CBA, as a labor contract, is not merely contractual in nature but impressed with public interest. If the retirement provisions in the CBA run contrary to law, public morals, or public policy, such provisions may very well be voided. Certainly, a CBA provision or employment contract that would allow management to subvert security of tenure and allow it to unilaterally "retire" employees after one month of service cannot be upheld. Neither will the Court sustain a retirement clause that entitles the retiring employee to benefits less than what is guaranteed under Article 287 of the Labor Code, pursuant to the provision's express proviso thereto in the provision.[66]

Article 1700 of the Civil Code provides that "[t]he relation between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good." As labor contracts are impressed with public interest, a CBA must be construed liberally, and the courts must give due consideration to "the context in which it is negotiated and purpose which it is intended to serve."[67] Any doubts should be resolved in favor of labor[68] and in favor of the retiree to achieve its humanitarian purposes.[69]

In the 2009 case of *Halagueña v. Philippines Airlines, Inc.*[70] involving the same parties, this Court emphasized that although the CBA is the law

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64 Id.

65 CIVIL CODE, arts. 1306 and 1409.

66 *Cainta Catholic School v. Cainta Catholic School Employees Union (CCSEU)*, 523 Phil. 134, 151–152 (2006) [Per J. Tinga, Third Division].

67 *Pantranco North Express, Inc. v. National Labor Relations Commission*, 328 Phil. 470, 484 (1996) [Per J. Panganiban, Third Division]. (Citation omitted)

68 LABOR CODE, sec. 4.

69 *United Doctors Medical Center v. Bernadas*, 822 Phil. 718 (2017) [Per J. Leonen, Third Division].

70 617 Phil. 502 (2009) [Per J. Peralta, Third Division].

between the parties, its provisions on retirement may still be voided if it is contrary to law, public morals, or public policy:

> Although it is a rule that a contract freely entered between the parties should be respected, since a contract is the law between the parties, said rule is not absolute.
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> In *Pakistan International Airlines Corporation v. Ople*, this Court held that:
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> > The principle of party autonomy in contracts is not, however, an absolute principle. The rule in Article 1306, of our Civil Code is that the contracting parties may establish such stipulations as they may deem convenient, "provided they are not contrary to law, morals, good customs, public order or public policy". Thus, counter-balancing the principle of autonomy of contracting parties is the equally general rule that provisions of applicable law, especially provisions relating to matters affected with public policy, are deemed written into the contract. Put a little differently, the governing principle is that parties may not contract away applicable provisions of law especially peremptory provisions dealing with matters heavily impressed with public interest. The law relating to labor and employment is clearly such an area and parties are not at liberty to insulate themselves and their relationships from the impact of labor laws and regulations by simply contracting with each other.
>
> Moreover, the relations between capital and labor are not merely contractual. They are so impressed with public interest that labor contracts must yield to the common good[.] The supremacy of the law over contracts is explained by the fact that labor contracts are not ordinary contracts; these are imbued with public interest and therefore are subject to the police power of the state. ***It should not be taken to mean that retirement provisions agreed upon in the CBA are absolutely beyond the ambit of judicial review and nullification. A CBA, as a labor contract, is not merely contractual in nature but impressed with public interest. If the retirement provisions in the CBA run contrary to law, public morals, or public policy, such provisions may very well be voided.***[71] (Emphasis supplied, citations omitted)

Petitioners now pursue their main case before this Court, assailing the compulsory retirement provision found in Section 144(A) of the PAL-FASAP 2000-2005 CBA as void for being contrary to law and public policy and for discriminating against women flight attendants. It provides:

Section 144 Retirement Benefits

A. For the Cabin Attendants hired before 22 November 1996:

1. Early Retirement

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[71] Id. at 519–520.

Any Cabin Attendant who has completed at least two (2) years of continuous service may opt to retire and when so retired, he shall be entitled to one and one-half (1 ½) months' salary for every year of completed service as retirement pay.

2. Optional Retirement

Any Cabin Attendant may retire at his option upon reaching the age fifty (50) for females or age fifty-five (55) for males and when so retired, the Cabin Attendant shall be entitled as retirement pay equivalent to:

a. One and one-half (1 ½) month's basic salary for every year of completed service based on their basic monthly salaries upon reaching the age fifty (50) for females or fifty-five (55) for males;

b. Plus one-half (1/2) month's basic salary for every year of completed service based on their final monthly basic salary for the year of services rendered after reaching the age of fifty (50) for females or age fifty-five (55) for males.

[Formula:
Retirement Pay = 1.5 months basic salary at age 50 female (or 55 male) x completed years of service, plus
.5 months basic salary x completed years of service after age 50 female (or 55 male)]

3. Compulsory Retirement

Subject to the grooming standards provisions of this Agreement, compulsory retirement shall be fifty-five (55) for females and sixty (60) for males. Retirements pay for compulsory retirement shall be:

a. One and one-half (1 ½) month's basic salary for every year of service based on their basic salaries upon reaching the age of fifty (50) for females or fifty-five (55) for males.

b. Plus one-half (1/2) month's basic salary for every year of service based on their final monthly basic salary for the year of services rendered after reaching the age of fifty (50) for females or age fifty-five (55) for males.

[Formula:
Retirement Pay = 1.5 months basic salary at age 50 female (or 55 male) x completed years of service, plus
.5 months basic salary x years of service after age 50 female (or 55 male)][72]

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[72] *Rollo*, pp. 117—118.

II

In finding merit in the Petition, we emphasize that the fundamental equality of women and men before the law is enshrined and guaranteed by the Constitution, statutes, and international convention where the Philippines is a signatory.[73]

Article II, Section 14 of the 1987 Constitution mandates the State to actively "ensure the fundamental equality before the law of women and men." Unlike the equal protection provision under Article III, Section 1, Article II, Section 14 requires the State to actively engage and promote gender equality, thus:

> Article II, Section 14 of the 1987 Constitution provides that "[t]he State . . . shall ensure the fundamental equality before the law of women and men." Contrasted with Article II, Section 1 of the 1987 Constitution's statement that "[n]o person shall . . . be denied the equal protection of the laws," Article II, Section 14 exhorts the State to "ensure." This does not only mean that the Philippines shall not countenance nor lend legal recognition and approbation to measures that discriminate on the basis of one's being male or female. It imposes an obligation to actively engage in securing the fundamental equality of men and women.[74]

Meanwhile, Article XIII, Section 14 commands the State to protect working women through providing opportunities that will enable them to reach their full potential. The Labor Code affirms the State's basic policy to "ensure equal work opportunities regardless of sex"[75] and expressly prohibits an employer from discriminating against women employees solely based on sex:

> ARTICLE 133. [135][76] *Discrimination Prohibited.* – It shall be unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex.
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> The following are acts of discrimination:

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[73] J. Leonen's Concurring and Dissenting Opinion in *Ordoña v. The Local Civil Registrar of Pasig City*, G.R. No. 215370, November 9, 2021 [Per J. Inting, *En Banc*].

[74] *Saudi Arabian Airlines (Saudia) v. Rebesencio*, 750 Phil. 791, 830–831 (2015) [Per J. Leonen, Second Division].

[75] LABOR CODE, art. 3 provides:
SECTION 3. *Declaration of Basic Policy.* – The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race or creed, and regulate the relations between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work.

[76] As amended by Republic Act No. 6725 (1989), sec. 1, An Act Strengthening the Prohibition on Discrimination Against Women with Respect to Terms and Conditions of Employment, Amending for the Purpose Article One Hundred Thirty-Five of the Labor Code, As Amended.

> (a) Payment of a lesser compensation, including wage, salary or other form of remuneration and fringe benefits, to a female employee as against a male employee, for work of equal value; and
>
> (b) Favoring a male employee over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes.
>
> Criminal liability for the willful commission of any unlawful act as provided in this article or any violation of the rules and regulations issued pursuant to Section 2 hereof shall be penalized as provided in Articles 288 and 289 of this Code: Provided, That the institution of any criminal action under this provision shall not bar the aggrieved employee from filing an entirely separate and distinct action for money claims, which may include claims for damages and other affirmative reliefs. The actions hereby authorized shall proceed independently of each other.

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), which the Philippines signed on July 15, 1980 and ratified on August 5, 1981, further realizes this policy to ensure fundamental equality between men and women.[77] In this Convention, "discrimination against women" is defined as:

> . . . any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.[78]

In the field of employment, Article 11(1) of the CEDAW further provides:

> 1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
>
> (a) The right to work as an inalienable right of all human beings;
>
> (b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
>
> (c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;

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[77] J. Leonen's Concurring and Dissenting Opinion in *Ordoña v. The Local Civil Registrar of Pasig City*, G.R. No. 215370. November 9, 2021 [Per J. Inting, *En Banc*].

[78] Convention on the Elimination of all Forms of Discrimination against Women, art. 1.

> (d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
>
> (e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
>
> (f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

In 2009, the legislature enacted Republic Act No. 9710 or the Magna Carta of Women which compels the State to "provide the necessary mechanisms to enforce women's rights and adopt and undertake all legal measures necessary to foster and promote the equal opportunity for women to participate in and contribute to the development of the political, economic, social, and cultural realms."[79] Discrimination against women has also been defined as:

> . . . any gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field.
>
> It includes any act or omission, including by law, policy, administrative measure, or practice, that directly or indirectly excludes or restricts women in the recognition and promotion of their rights and their access to and enjoyment of opportunities, benefits, or privileges.
>
> A measure or practice of general application is discrimination against women if it fails to provide for mechanisms to offset or address sex or gender-based disadvantages or limitations of women, as a result of which women are denied or restricted in the recognition and protection of their rights and in their access to and enjoyment of opportunities, benefits, or privileges; or women, more than men, are shown to have suffered the greater adverse effects of those measures or practices.
>
> Provided, finally, that discrimination compounded by or intersecting with other grounds, status, or condition, such as ethnicity, age, poverty, or religion shall be considered discrimination against women under this Act.[80]

In *Saudi Arabian Airlines (Saudia) v. Rebesencio*,[81] we found discriminatory Saudia's policy which terminates the employment of flight attendants who become pregnant, and compelled all personalities acting on behalf of the State, including this Court, to act pursuant to the constitutional exhortation "to ensure that no discrimination is heaped upon women on the mere basis of their being women[,]" thus:

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79 Republic Act No. 9710 (2009), sec. 2, par. 4.
80 Republic Act No. 9710 (2009), sec. 4(b).
81 750 Phil. 791 (2015) [Per J. Leonen, Second Division].

> The constitutional exhortation to ensure fundamental equality, as illumined by its enabling law, the CEDAW, must inform and animate all the actions of all personalities acting on behalf of the State. It is, therefore, the bounden duty of this court, in rendering judgment on the disputes brought before it, to ensure that no discrimination is heaped upon women on the mere basis of their being women. This is a point so basic and central that all our discussions and pronouncements—regardless of whatever averments there may be of foreign law — must proceed from this premise.
>
> So informed and animated, we emphasize the glaringly discriminatory nature of Saudia's policy. As argued by respondents, Saudia's policy entails the termination of employment of flight attendants who become pregnant. At the risk of stating the obvious, pregnancy is an occurrence that pertains specifically to women. Saudia's policy excludes from and restricts employment on the basis of no other consideration but sex.
>
> We do not lose sight of the reality that pregnancy does present physical limitations that may render difficult the performance of functions associated with being a flight attendant. Nevertheless, it would be the height of iniquity to view pregnancy as a disability so permanent and immutable that it must entail the termination of one's employment. It is clear to us that any individual, regardless of gender, may be subject to exigencies that limit the performance of functions. However, we fail to appreciate how pregnancy could be such an impairing occurrence that it leaves no other recourse but the complete termination of the means through which a woman earns a living.[82]

III

Considering the constitutional guarantee of protection to labor and security of tenure,[83] an employer must convincingly establish, through substantial evidence, that there is a valid and just cause to terminate the employment of an employee.[84]

Substantial evidence, which is the quantum of proof required in labor cases, require "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[85] In *Dela Cruz-Cagampan v. One Network Bank, Inc.*,[86] this Court found One Network Bank's no-spouse employment policy as discriminatory, since it failed to prove with substantial evidence the factual basis and reasonable business necessity for its policy.

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82 Id. at 831–832.

83 CONST., art. XIII, sec. 3.

84 *Philippine Telegraph and Telephone Company v. National Labor Relations Commission,* 338 Phil. 1093 (1997) [Per J. Regalado, Second Division].

85 *Dela Cruz-Cagampan v. One Network Bank,* G.R. No. 217414, June 22, 2022 [Per J. Leonen, Third Division] at 11. This pinpoint citation refers to a copy of the Decision uploaded to the Supreme Court website.

86 G.R. No. 217414, June 22, 2022 [Per J. Leonen, Third Division].

The trial court ruled that respondent failed to prove any difference between male and female cabin attendants which justifies the implementation of the assailed provision.[87] On the other hand, the Court of Appeals justified the difference in the compulsory retirement age for male and female cabin attendants as follows:

> ***In this regard, the CBA provision on early retirement for female flight attendants must be viewed in the context of PAL's obligation to guarantee the safety of its passengers taking into account the obvious biological difference between male and female.*** It must be remembered that the task of a cabin crew or flight attendant is not limited to serving meals or attending to the whims and caprices of the passengers. ***The most important activity of the cabin crew is to care for the safety of passengers and the evacuation of the aircraft when an emergency occurs. Passenger safety goes to the core of the job of a cabin attendant. Truly, airlines need cabin attendants who have the necessary strength to open emergency doors, the agility to attend to passengers in cramped working conditions, and the stamina to withstand grueling flight schedules.***
>
> In addition, it bears emphasis that providing an early retirement age for female flight attendants does not necessarily place them at a great disadvantage. For one, early retirement creates a great window of opportunity to make positive lifestyle changes and restore a well-balanced life. Here, petitioners-appellees will have more time to spend with their families and friends as well as the opportunity to pursue activities and hobbies that they may not have had the time to do in the past. Early retirement can also potentially improve their physical and mental health, which in turn can help them live a longer and happier life.
>
> As to the financial aspect, early retirement has been considered as a reward for services rendered since it enables an employee to reap the fruits of his labor—particularly retirement benefits, whether lump-sum or otherwise—at an earlier age, when said employee, in presumably better physical and mental condition, can enjoy them better and longer.[88] (Emphasis supplied)

We agree with the trial court. Respondent was not able to provide any reasonable basis for differentiating the compulsory retirement age for female cabin attendants at 55 years old and the male cabin attendants at 60 years old.

The Court of Appeals' reasoning supports the view that the compulsory retirement age for female cabin attendants was made lower than their male counterparts on the "mere basis of their being women." This is discriminatory against women. There is no proof that female cabin attendants, between 55 to 59 years old, do not have the "necessary strength to open emergency doors, the agility to attend to passengers in cramped working conditions, and the stamina to withstand grueling flight schedules" as compared with their male counterparts. The Court of Appeals' inference is manifestly mistaken and its conclusion grounded on speculation, surmises, or conjectures.

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87 *Rollo*, pp. 127–128.
88 Id. at 64.

As a State Party to the CEDAW, the Philippines, including the judiciary as a State instrumentality, bound itself to take all appropriate measures "to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women."[89]

We hold that petitioners female cabin attendants were able to prove that the enforcement of Section 144(A) of the PAL-FASAP 2000-2005 CBA is discriminatory against them, and thus prohibited by the Constitution, laws, and international conventions.

Petitioners substantiated that they were discriminated upon when they were forced to retire at 55 years old while their male counterparts were compulsory retired at 60 years old. They were denied of the opportunity for employment as they were retired at an age "not young enough to seek for a new job but not old enough to be considered retired[.]"[90] They were further denied the benefits attached to employment, such as income and medical benefits, five years earlier than their male counterpart, without any factual basis.[91] Thus, this discrimination heaped upon them on the mere basis of their being women which is patently contrary to the Constitution, laws, international conventions, and even their CBA itself, which provides that respondent company should "maintain a policy of non-discrimination against any employee or Union member by reason of race, color, sex, creed or political or religious beliefs or Union affiliation."[92]

Respondent claims that the Labor Code provides for the differential treatment of women especially for flight attendants, specifically:

> ARTICLE 130. [132] *Facilities for Women.* – The Secretary of Labor and Employment shall establish standards that will ensure the safety and health of women employees. In appropriate cases, he shall, by regulations, require any employer to:
>
> (a) Provide seats proper for women and permit them to use such seats when they are free from work and during working hours, provided they can perform their duties in this position without detriment to efficiency;
>
> (b) To establish separate toilet rooms and lavatories for men and women and provide at least a dressing room for women;
>
> (c) To establish a nursery in a workplace for the benefit of the women employees therein; and

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89 Convention on the Elimination of all Forms of Discrimination against Women, art. 5(a).
90 *Rollo*, p.129.
91 Id.
92 Id. at 86. PAL-FASAP 2000-2005 CBA, Article III, Section 7(C).

> ***(d) To determine appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like.*** (Emphasis supplied)

However, this provision allows the Secretary of Labor, "by regulation," to require the employer to determine "appropriate minimum age and other standards for retirement or termination in special occupations such as those of flight attendants and the like" in "appropriate cases." Respondent did not offer any such regulation issued by the Secretary of Labor.

Also, this recognition that the Labor Code may, under certain circumstances, treat women differently cannot operate in favor of differentiating the age for compulsory retirement for male and female cabin attendants. To reiterate, retirement laws are to be construed liberally in favor of the retiree to achieve its humanitarian purposes[93] and the courts must give due consideration to "the context in which it is negotiated and purpose which it is intended to serve."[94] Again, respondent did not advance a compelling reason to justify the difference for age of compulsory retirement. That there is no reason to differentiate the age for compulsory retirement for male and female cabin attendants is bolstered by a subsequent provision in their CBA, which provides that for cabin attendants hired after November 22, 1996, the age for compulsory retirement is at 45 years old, without distinction as to sex; and for those hired after November 22, 2000, the age for compulsory retirement is at 40 years old, again without distinction as to sex:

> B. For Cabin Attendants hired after 22 November 1996:
>
> 1. Optional Retirement
>
> Effective 22 November 1996, a Cabin Attendant who has completed at least four (4) years of continuous service and is less than forty five (45) years of age may retire at his option and, when so retired, he/she shall be entitled to one and a half (1 ½) months' salary for every year of completed service as retirement pay.
>
> A Cabin Attendant hired after November 22, 2000 who has completed at least four (4) years of continuous service and is less than forty (40) years of age may retire at his option and, when so retired, he/she shall be entitled to one and a half (1 ½) months' salary for every year of completed service as retirement pay.
>
> 2. Compulsory Retirement
>
> Effective 22 November 1996, Cabin Attendants shall be compulsory retired at age forty five (45) and, when so retired, he/she shall be entitled to one and a half (1 ½) months' salary for every year of completed service as retirement pay.

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93 *United Doctors Medical Center v. Bernadas*, 822 Phil. 718 (2017) [Per J. Leonen, Third Division].

94 *Pantranco North Express, Inc. v. National Labor Relations Commission*, 328 Phil. 470 (1996) [Per J. Panganiban, Third Division].

> Cabin attendant hired after November 22, 2000 shall be compulsorily retired at age forty (40) and, when so retired, he/she shall be entitled to one and a half (1 ½) month's salary for every year of completed service as retirement pay.[95]

Evidently, the compulsory retirement provision in Section 144(A) of the PAL-FASAP 2000-2005 CBA is repugnant to the Constitution, the Labor Code, the Magna Carta of Women, and the CEDAW. Moreover, the said provision was not voluntarily agreed upon by petitioners.

In *Jaculbe v. Siliman University*,[96] this Court emphasized that the employer and employee do not stand on equal footing, and employees have no choice but to participate in the plan when their employment is at stake:

> In this case, neither the CA nor the respondent cited any agreement, collective or otherwise, to justify the latter's imposition of the early retirement age in its retirement plan, opting instead to harp on petitioner's alleged "voluntary" contributions to the plan, which was simply untrue. The truth was that petitioner had no choice but to participate in the plan, given that the only way she could refrain from doing so was to resign or lose her job. It is axiomatic that employer and employee do not stand on equal footing, a situation which often causes an employee to act out of need instead of any genuine acquiescence to the employer. This was clearly just such an instance.
>
> Not only was petitioner still a good eight years away from the compulsory retirement age but she was also still fully capable of discharging her duties as shown by the fact that respondent's board of trustees seriously considered rehiring her after the effectivity of her "compulsory retirement."
>
> As already stated, an employer is free to impose a retirement age less than 65 for as long as it has the employees' consent. Stated conversely, employees are free to accept the employer's offer to lower the retirement age if they feel they can get a better deal with the retirement plan presented by the employer. Thus, having terminated petitioner solely on the basis of a provision of a retirement plan which was not freely assented to by her, respondent was guilty of illegal dismissal.[97] (Citations omitted)

In *Cercado v. Uniprom Inc.*,[98] this Court held that the employee's implied knowledge or passive acquiescence to the employer's retirement plan cannot be equated to a voluntary and equivocal acceptance of the early retirement age option, as it involves concession of the employee's right to security of tenure. Further, in *Paz v. Northern Tobacco Redrying Co. Inc.*,[99] this Court considered an employee illegally dismissed from the time they were retired by the company at 60 years old despite absence of company policy supporting it and the employee's lack of intent to retire.

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95 *Rollo*, p. 118.
96 547 Phil. 352 (2007) [Per J. Corona, First Division].
97 Id. at 359.
98 647 Phil. 603 (2010) [Per J. Nachura, Second Division].
99 754 Phil. 251 (2015) [Per J. Leonen, Second Division].

Here, petitioners' act of vigorously pursuing this case all the way up to this Court twice for almost eighteen years completely negates the claim that they agree to retire under the compulsory retirement provision of the CBA. Even if embodied in the CBA, petitioners had no choice but to assent to the contested retirement provision, considering that Article II, Section 3 of the CBA provides that "the Company will not hire [a] Cabin Attendant without their being completely subject to the terms of th[e] Agreement."[100] This was assented to by their male-denominated union representatives, who failed to protect their interests and even testified against them.[101] Thus, despite the incorporation of the retirement provision in the CBA and petitioners' receipt of retirement benefits, they cannot be estopped from questioning the validity of their retirement, since economic necessity and the prospect of unemployment compelled the employees to accept the benefits offered them.[102] That the distinction has been historically and mutually agreed upon in previous CBAs does not impose any obligation on both parties to continually accept it.

Considering that the Civil Code[103] categorically provides that contracts and its stipulations, whose cause, object, or purpose is contrary to law, morals, good customs, public order, or public policy, are void, Section 144(A) of the PAL-FASAP 2000-2005 CBA is void for being contrary to the Constitution, laws, international convention, and public policy. Petitioners are entitled to the reliefs they prayed for.

ACCORDINGLY, the Petition for Review is **GRANTED.** The May 31, 2018 Decision and November 19, 2018 Resolution of the Court of Appeals in CA-G.R. CV No. 107085 are **REVERSED** and **SET ASIDE.** The May 22, 2015 Decision and October 9, 2015 Resolution of the Regional Trial Court of Makati City, Branch 59, in Civil Case No. 04-886, are **AFFIRMED** and **REINSTATED.**

SO ORDERED.

MARVIC M.V.F. LEONEN
Senior Associate Justice

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100 *Rollo,* p. 84.
101 Id. at 26 and 30.
102 *Ariola v. Philex Mining Corporation*, 503 Phil. 765, 783 (2005) [Per J. Carpio, First Division].
103 CIVIL CODE, arts. 1306 and 1409.

WE CONCUR:

ALEXANDER G. GESMUNDO
Chief Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On leave
RAMON PAUL L. HERNANDO
Associate Justice

Pls. see concurrence
AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

No part
JHOSEP Y. LOPEZ
Associate Justice

No part
JAPAR B. DIMAAMPAO
Associate Justice

JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO JR.
Associate Justice

Pls. see Separate Concurring Opinion
MARIA FILOMENA D. SINGH
Associate Justice

CERTIFICATION

Pursuant to Article VIII, Section 13 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.

ALEXANDER G. GESMUNDO
Chief Justice