99 Phil. 880

[G.R. No. L-9137. August 31, 1956]

APOLONIA REYES, ET AL., PETITIONERS, VS. HONORABLE BIENVENIDO TAN, ET AL., RESPONDENTS.

D E C I S I O N

REYES, J.B.L., J.:

Petitioners are employees and laborers of the Master Shirt Company and members of the Kapisanan ng Mga Manggagawa ng Damit labor union, On April 24, 1955, petitioners, with other workers affiliated with the Kapisanan ng Mga Manggagawa ng Damit, after a protest against the unjust dismissal made by the factory management of one Amelia Sumulong declared a strike, and as a consequence thereof, placed a picket line outside the factory compound. On May 10, 1955, respondents, also workers of the same shirt company and members of a rival union, the Samahan ng Mga Manggagawa sa Master Shirt Company, brought suit before the Court of First Instance of Manila asking for the issuance of a writ of preliminary injunction; and on the same date, without previous hearing and on the basis alone of sworn affidavits submitted by the respondents, the Court of First Instance issued the writ prayed for, stating the reasons therefor in his order of May 10, 1955 as follows:

> "The plaintiffs, in a verified complaint, alleged that,they are non-striking employees of the Master Shirt Factory who, among other things, were prevented through acts of coercion and violence by the defendants from taking their meals at the factory, which they have chosen as their temporary home during the pendency of the strike. Affidavits showing the defendants' unlawful conduct in intercepting the food supplies being delivered to the plaintiffs and the defendants' employment of force and intimidation to prevent any breaking through their picketline, were attached to the complaint.
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> The plaintiffs made it clear that unless a restraining order is issued by this

> court they would not be able to pursue their means of livelihood and possibly starve. In the face of such appeal the court cannot simply folds its arms and do nothing to prevent a party from exercising a very human right—to eat.
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> This court believes that while picketing is an extension of the right to free speech, it should not be exercised so as to deprive others of their right to eat and, consequently, to live. The right to live is a right to which everyone is entitled, regardless of whether he is an employer or an employee, a striker or non-striker, and under our system of government no one is above the law and everyone is entitled to its equal protection.
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> In view of the foregoing consideration, the court hereby orders that, upon the filing by the plaintiffs of a bond in the amount of P10,000 to answer for whatever damage that may occur to the defendants and pending the determination of the merits of the complaint, the defendants, their attorneys, agents or representatives should immediately—
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>> (*a*) refrain and desist from obstructing, stopping, blocking, coercing, intimidating, or in any way or manner preventing the plaintiffs and other co-employees from going in and out of the above-mentioned factory in pursuance of their word and .livelihood;
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>> (*b*) refrain and desist from obstructing, stopping, blocking, coercing, intimidating, or in any way or manner preventing or hampering any and all deliveries of food and other necessities for the plaintiffs and all deliveries of goods or merchandise on which the plaintiffs work in pursuance of their livelihood;
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>> (*c*) refrain and desist from any, all or similar unlawful acts heretofore committed and threatened to be committed against the plaintiffs." (Annex "A", Petition.)

The next day, May 11, 1955, petitioners moved to dissolve the injunction, challenging the jurisdiction of the court in issuing the same on the ground that under Republic Act No. 875, the Court of Industrial Relations has exclusive jurisdiction to issue writs of preliminary injunctions in labor disputes. The respondent judge denied petitioners motion

to dismiss; wherefore, they filed this petition for certiorari and prohibition before this Court.

The main issue raised by petitioners is the jurisdiction of the respondent judge in issuing the injunction in question. The question of whether or not the ordinary courts can issue injunctions in labor disputes has been recently decided by us in the case of PAFLU *vs*. Hon. Bienvenido Tan, et al. (supra, p. 854), promulgated August 31, 1956, wherein we held that by the passage of Republic Act No. 875, the jurisdiction of the Court of Industrial Relations has been limited to the following cases:

> "(1) when the labor dispute affects an industry which is indispensable to the national interest and is so certified by the President to the industrial court (Section 10, Republic Act No, 875); (2) when the controversy refers to minimum wage under the Minimum Wage Law (Republic Act No. 602); (3) when it involves hours of employment under the Bight-Hour Labor Law (Commonwealth Act No. 464); and (4) when it involves an unfair labor practice (Section 5[a], Republic Act No. 875)";

and that in all other cases involving labor disputes not falling within the jurisdiction of the Industrial Court above enumerated, it is the ordinary courts of justice who have the power to issue injunctions.

There are, however, admissions in this case by both parties that the acts against which the injunction in question was obtained constitute unfair labor practices (Petition, p. 4; Answer, p. 9). If we are to go by these admissions, then the application for injunction would have been exclusively cognizable by the Court of Industrial Relations and beyond the jurisdiction of the respondent Court of First Instance.

On the other hand, assuming that the respondent court had jurisdiction, the injunction issued by it is nevertheless void because the procedure laid down by section 9 (*d*) of Republic Act No. 875 was not followed in its issuance. Respondents argue that they did not comply with said procedure because they sought out the injunction under section 6, Rule 60 of the Rules of Court and not under the provisions of Republic Act No. 875. This argument has, however, already been ruled out by us in the same case of PAFLU *vs*. Tan case, *supra,* where we said:

> "We believe however that in order that an injunction may be properly issued the procedure laid down in section 9(*d*) of Republic Act No. 875 should be followed and cannot be granted *ex parte* as allowed by Rule 60, section 6, of the Rules of .Court. The reason is that the case, involving as it does a labor dispute, comes Tinder said section 9(*d*) of the law. That procedure requires that there should be a hearing at' which the parties should be given an opportunity for cross-examination, and that the other conditions required by said section as prerequisites for the granting of relief must be established and stated in the order of the court. Unless this procedure is followed, the proceedings would be invalid and of no effect. The court would then be acting in excess of its jurisdiction."

Under section 9 (*d*) of Republic Act No. 875, an injunction *ex parte* can be issued only "upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon hearing after notice". In other words, there is still necessity for a hearing at which sworn testimony for the applicants would be received, and not only that, the court should be satisfied that such testimony would stand under cross-examination by the Court and be sufficient to overcome denial by the defendants. As no hearing was held in the Court below and the injunction issued on the basis of mere affidavits submitted by respondents (petitioners-applicants in the Court below), the injunction in question is void for not having been issued in accordance with provisions of Republic Act No. 875.

It should be noted that even if the writ had been properly issued, the express statutory provision is to the effect that a temporary restraining order issued *ex parte* "shall be effective for no longer than five days and shall become void at the expiration of said five days" (also section 9 (*d*), Republic Act No. 875). The injunction in question, having been issued ex parte, therefore became void and of no effect after the fifth day of its issuance, by operation of law and without any further need of judicial pronouncement.

The petition for certiorari is granted and the writ of preliminary injunction issued by the respondent judge is declared null and void, with costs against respondent workers Victoria Gonzales, et al. So ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Endencia,, and *Felix, JJ.,* concur.

Date created: October 10, 2014