

[G.R. No. L-9327. March 30, 1957]

KAPISANAN NG MGA MANGGAGAWA SA MANILA RAILROAD COMPANY, VICENTE K. OLAZO, ETC., ET AL., PETITIONERS, VS. PAULINO BUGAY AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

MONTEMAYOR, J.:

This is a petition for review of the decision of the Court of Industrial Relations (CIR) in Case No. 129-ULP, dated January 27, 1954 (1955), and the resolution of the same court dated June 10, 1955, dismissing the motion for reconsideration. The petition, filed by the petitioner Kapisanan ng mga Manggagawa sa Manila Railroad Company, a labor union duly registered, Vicente K. Olazo, its president, and twenty others composing the Board of Directors, ask that the decision and the resolution aforementioned be revoked and set aside, and that the complaint for unfair labor practice against petitioners herein be" dismissed.

Respondent Paulino Bugay, employed by the Manila Railroad Company as a payroll clerk and at the same time a member and an official of the Kapisanan being its union auditor, filed charges with the CIR against said Kapisanan, its president (Olazo), and the members of the Board of Directors, complaining that he had been illegally expelled from the Union. On the basis of said charges, an acting prosecutor of the CIR filed a complaint against the Union, its president, and the members of the Board of Directors (Case No. 1.29-ULP), charging them with unfair labor practice within the meaning of Section 4(b) (2) of Republic Act No. 875. Defendants answered the complaint denying the charges and alleging that Bugay, as a member of the Union, had been charged with disloyalty and infidelity in the custody of documents of the Union, and conduct unbecoming a member, was duly investigated, found guilty and was subsequently expelled in accordance with the constitution and by-laws of the Union. Hearing was held before a duly designated hearing examiner of the CIR, and thereafter, the CIR decision now sought to be reviewed was rendered. Inasmuch as said decision makes a clear narration of the facts and the issue involved, we reproduce with approval the pertinent portions' thereof:

“It appears that complainant Paulino. Bugay, payroll clerk of the Manila Railroad Company, became a member of the Kapisanan in 19-17. Since then until August 10, 1953, he held the position of union auditor. Sometime in March, 1953, he was requested by the acting secretary-treasurer of the board oi’ directors of the company to lend to the “board certain documents belonging” to the Kapisanan for “verification purposes” (Exh. D). In compliance with the request, Bugay delivered a certain voucher to the management without consulting the other officers of the union. In or about the same month, respondent Vicente K, Olazo, Kapisanan general president and assistant electrical and signal superintendent of the engineering department of the company, was administratively charged by his employer with having exploited retirees of the company. On April 16, 1953, pending investigation oi’ the administrative case, he was suspended from the service of the company. The committee, which was created by the board and which investigated the administrative charge, found him guilty of dishonesty and disloyalty to the company and recommended his dismissal from employment with prejudice to future reinstatement. On May 15, 1953, the board approved the recommendation and’ on the same date he was discharged. Subsequently, on the company’s initiative, he was accused of having falsified its records but the accusation did not prosper, in the preliminary investigation conducted by the office of the City Fiscal of Manila, however, he learned that among the papers used by his employer as evidence against him was the voucher which Bugay had lent to the company. On June 3, 1953, he complained to the investigation committee of the Kapisanan against Bugay’s actuation. This committee set Olazo’s complaint for¹ hearing and notified the parties thereto but, for reasons undisclosed by the record, Eugay failed to attend it. Nevertheless, the committee proceeded with the inquiry ex-parte and on June 11, 1953, submitted a report to the Kapisanan board of directors, finding Bugay guilty of disloyalty to the union and recommending his immediate expulsion. In his absence, the Kapisanan board passed a resolution on June 14, 1953, approving the recommendation and transmitted it (Exhibit 4) three days later to the various chapters of the Kapisanan for affirmation or rejection. Majority of the chapters affirmed the resolution. On August 10, 1953, Bugay was notified of his definite expulsion from the union. On the same day, he wrote to the Kapisanan board, questioning the validity of its action. This was followed by the Central Office Chapter to which he belonged and which was one of the chapters that voted against the resolution. The request for reconsideration was granted and the action of the Kapisanan

board was transmitted to the different chapters for their consideration. Since January 19, 1954, when the transmittal was made, none of the chapters has ever acted upon the resolution approving Bugay's reinstatement. It is for this reason that Bugay instituted this case against the respondents."

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"It is to be noted that both the investigation held by the investigation committee of the Kapisanan and in the board meeting of June 14, 1953, where the committee's report recommending expulsion was approved, Bugay was not present. As has been pointed out earlier, the reason for Bugay's failure to attend the investigation does not appear of record. On the other hand, during the board meeting, the committee of three board members assigned to summon-Bugay failed to serve notice upon him because he was then in Lucena, Quezon. Why all these proceedings were continued by the respondents in spite of Bugay's absence remains unexplained in the record. But one thing is certain: whatever might be the merits of the charge filed by respondent Olazo against him, Bugay did not have sufficient opportunity to defend himself. Such proceedings, being violative of the elementary rule of justice and fair play, cannot give validity to any act done pursuant thereto.

"Besides, the contention that majority of the chapters voted in favor of Bugay's expulsion is not borne by the evidence. An examination of the communications sent by the chapters to the Kapisanan board of directors (Exhs. 7 to 28) shows that all of the votes, except those of the Hondagua Chapters and Engineering Manila Yard Chapter (Exhs. 14 and 17) were not validly cast. Under the Kapisanan's constitution and by-laws, relied upon by the parties, before a resolution of general application may be enforced, a resolution terminating union membership is one, it must receive the sanction of majority of the chapters within ten (10) days (Sec. 4, Art. VII, Kapisanan's Saligan Batas). In other words, action thereon, whether favorable or otherwise, must be taken by the chapters within a period of ten days from the time they receive the resolution. According to respondent Olazo's testimony, the resolution passed on June 14, 1953, was transmitted to the chapters on June 17, 1953. To make it effective, the resolution had to be affirmed by the chapters on July 1, 1953, at the latest. The additional time of four days is allowed for transmittals made by mail. Only the two above-

mentioned chapters, however, acted on the resolution within the prescribed period. For this reason, even under the assumption that the proceedings against Bugay were not irregular, the resolution in question never had any valid effect on his union membership. In short, his affiliation with the Kapisanan was never terminated. That being the case, Bugay is entitled to all the rights and obligations appertaining to every member of the Kapisanan. Considering that he has been unduly and discriminatorily deprived of such rights and obligations, the Court finds, and so holds, that the respondents, by their act and conduct, have engaged in and are engaging in unfair labor practice in violation of Section 4(b) (2) of the Act.

“In view of this finding;, it is unnecessary for us to pass upon the issue respecting the merits of the union charge against him.

“Wherefore, the respondents, their successors and representatives, are hereby ordered to cease and desist from depriving Paulino Bugay of his membership in the Kapisanan Ng Mga Manggagawa sa Manila Eailroad Company and to allow him to exercise such rights and Kapisanan ng mga Manggagaiva sa Manila Railroad Co., et al. vs. Bugay and C. I. R. perform such, obligations as are enjoyed by and imposed upon the other members of the union, free from every form of discrimination. The respondents, their successors and representatives are further hereby ordered to file with the Court, within ten (10) days from the date of receipt hereof, a certification of their compliance with this decision.”

Petitioners question the jurisdiction of the CIR in the present case. We have authorities to the effect that when a member is illegally expelled from his Union, or the processes provided for by the constitution and by-laws of said union have not been followed in effecting the expulsion, said member may resort to the courts for protection:

“Sec. 68. *Generally.*—A union may not expel members except as authorized by its by laws. A union may discipline a member for refusal to obey its lawful regulations by expelling him and depriving him of its privileges. * * *.”

“Sec. 69. *Relief in Court.*—The courts will not review the expulsion of a member of a labor union for infringement of its rules, ordered in accordance with the constitution. Nor will they interfere to protect a member from expulsion because

of his refusal to pay a fine, in the absence of any showing of a want of jurisdiction in the Board assessing the fine or a case of irreparable injustice and hardship. But a member of a labor union who has been illegally expelled may be reinstated by the court?., either by mandamus proceedings or by an action for an injunction and a judgment of reinstatement, according to the practice in the particular state. In a proper case, an injunction against a threatened unlawful expulsion will be granted.” (31 Am. Jur. pp. 864-865) (Italics ours).

The question to decide is, what is the court or what are the courts referred to in the above quotation. Under section 17 of Republic Act 875, questions involving the rights and conditions of membership in a labor organization, (and the expulsion of a member from such labor organization is one of such questions) fall within the jurisdiction of the CIR. For purposes of ready reference, we are reproducing the whole section 17, viz:

“Sec. 17. Rights and Conditions of membership in Labor Organizations.—It is hereby declared to be the public policy of the Philippines to encourage the following internal labor organization procedures. A minimum of ten per cent of the members of a labor organization may report an alleged violation of these procedures in their labor organization to the Court. If the Court finds, upon investigation, evidence to substantiate the alleged violation and that efforts to correct the alleged violation through, the procedures provided by the labor organization’s constitution or by-laws have been exhausted, the Court shall dispose of the complaint as in “unfair labor practice” cases.

(a) Arbitrary or excessive initiation fees shall not be required of the members of a legitimate labor organization nor shall arbitrary, excessive or oppressive fines and forfeitures be imposed.

(b) The members shall be entitled to full and detailed reports from their officers and representatives of all financial transactions as provided in the constitution and by-laws of the organization.

(c) They shall also have the right to elect officers by secret ballot at intervals of not more than two years and to determine and vote upon the question of striking or not striking or upon any other question of major policy affecting the entire membership of the organization.

(d) No labor organization shall knowingly admit as members or continue in membership therein any individual who belongs to any subversive organization or who is engaged directly or indirectly in any subversive activity or movement.

(e) No person who has been convicted of a crime involving moral turpitude shall be eligible for election to any office in a legitimate labor organization or for appointment to any position involving the collection, custody, management, control, or disbursement of its funds, and any such person shall be disqualified from continuing to hold any office or such position in the organization.

Within sixty days of the election of the officers of a legitimate labor organization, the secretary or other responsible officer thereof, shall furnish the Secretary of Labor with a list of the newly-elected officers and the appointive officers or agents of the organization who are entrusted with the collection, custody, management, control or disbursement of its funds. Any change in such list shall be reported within this period.

(f) No officer, agent or member of a legitimate labor organization shall collect any fees, dues, or other contributions in behalf of the organization or make any disbursement of its money or funds unless he is provided with the necessary authority pursuant to its constitution or by-laws.

(g) Every payment of fees, dues, or other contributions by a member shall be evidenced by a receipt signed by the officer or agent making the collection and entered upon the record of the organization to be kept and maintained for that purpose.

(h) The funds of the organization shall not be applied for any purpose or object other than those expressly stated in its constitution or by-laws or those expressly authorized by a resolution of the majority of the members.

(i) Every expenditure of the funds of the organization shall be evidenced by a receipt from the person to whom the payment was made, which shall state the date, place and purpose of such payment. Such receipts shall form part of the financial records of the organization.

(j) The officers of a legitimate labor organization shall not be paid any other compensation, in addition to the salaries and expenses for their positions which

shall be specifically provided for in its constitution or by-laws, except in pursuance of a resolution approved in a meeting by a majority vote.

(k) The treasurer of a legitimate labor organization and every officer thereof who is responsible for the accounts of such organization or for the collection, disbursement, custody or control of the funds, moneys and other properties of the organization, shall render to the organization and to its members at the times specified here-under a true and correct account of all moneys received and paid by him since he assumed office or since the last date on which he rendered such account and of the balance remaining in his hands at the time of rendering such account, and of all bonds, securities, and other properties of the organization entrusted to his custody or under his control. The rendering of such account shall be made—

- (1) at least once a year within thirty days of the close of its fiscal year;
- (2) at such other times as may be required by a resolution; of the majority of the members of the organization; and
- (3) upon vacating his office.

The account shall be verified by affidavit and copy thereof shall be furnished the Secretary of Labor. The organization shall cause such account to be audited by a qualified person.

(1) The books of accounts and other records of the financial activities of a legitimate labor organization shall be open to inspection by any officer or member thereof.”

Of course, the first paragraph of section 17 provides that a minimum of ten per cent (10%) of the members of a labor organization may report to the CIR an alleged violation of these procedures in the labor organization. But there is reason to believe that said minimum of 10% refers only to violations which involve a group or a sizeable number of the members in which the latter are interested, or which necessarily affect them; such are paragraph (b) about detailed reports from the officers of the Union of all financial transactions; or paragraph (c) about the right to elect officers at intervals of not more than two years and to

determine and vote upon questions involving major policies affecting the entire membership of the organization; or paragraph (h) about the application of the funds of the organization only for those purposes expressly stated in the constitution or by-laws, etc. However, when a violation like the supposed illegal expulsion of a member affects only the member expelled, or under paragraph (a) an excessive fine is imposed only upon one member; or under paragraph (c) one member is deprived of his right to vote by secret ballot in the election of officers of the union; or under paragraphs (f) and (g) an officer collects from a member any fees or dues or contributions without authority pursuant to the constitution and by-laws, or refuses to issue a receipt to a member from whom any fees, dues or other contributions are collected, etc., then it is not necessary that 10 per cent of such members of the union make the report or complaint to the CIR, but only the member immediately affected may do so.

The petitioners in their very petition for review now before us admit this jurisdiction of the CIR. On page 19 thereof, petitioners say the following:

“The Court is invested with jurisdiction by Republic Act 875 over unfair labor practices only, and aver internal union matters in which the union fails to conform to the provisions of its constitution in expelling or suspending a member, or fails to guarantee a fair trial or if remedies provided by the union are vain, or tile union action is against public policy.”

Petitioners contend that the act of respondent Paulino Bugay as auditor of the Union in removing from the files of said Union a certain document and lending it to the Manila Railroad Company, of which he was an employee, to be used by the latter in the prosecution of Vicente K. Olazo, also an employee of the Railroad Company and at the same time president of the union, constituted disloyalty and infidelity in the custody of documents, sufficient for expulsion from the union. In his answer, Bugay argues that his action was neither wrong nor irregular because, according to the very constitution of the union, Article 3, Section 1 (a), labor and management should cooperate (or help each other) and that as a member of the Union and as an employee of the Manila Railroad Company, it was even his duty, for purposes of cooperation, to lend the said documents of the Union to the railroad company.

The present petition for review may properly be decided on the regularity and validity of the proceedings and the means adopted by the Union and its officers in affecting said expulsion.

But touching, though lightly, on the merits of the case, particularly, the justification for the expulsion urged by the respondents, there is some force in the contention of respondent Bugay that the very constitution of the Union provides for cooperation between management and labor, and that they should help each other, and that because of that constitutional provision and policy, he (Bugay) felt that it was but proper that he should lend the documents in the files of the Union to the Railroad Company when needed by the latter. Besides, we should bear in mind that although Bugay as a member and as an auditor of the Union owed loyalty to the same, still he was equally an employee of the Railroad Company and also owed loyalty to the management. In other words, he had a divided loyalty. He could not very well be loyal to his Union and be disloyal to his employer, or vice-versa. Moreover, one may not say that in lending a document of the Union to the Company, Bugay committed an act of disloyalty to the Union. Said act may be one of disloyalty to Olazo whose interest might have been affected, even jeopardized, by the availability and use of said document by the Railroad Company, but it could in no manner affect or jeopardize the interests of the Union. Furthermore, the said document in question was being utilized by the Railroad Company to prosecute Olazo for an alleged falsification of a document, which is, a public crime. To help prosecute one guilty or allegedly guilty of a public crime is not exactly a condemnable or evil act. On the contrary, it is a civic duty the performance of which may be commended. Although prejudicial to the Union official sought to be prosecuted, it might even be favorable and to the interests of the Union itself because, if the charge is true and the prosecution succeeded, then said Union official and president will have been exposed, and convicted of a serious crime of falsification, and eventually separated from said Union.

The CIR found that the hearing of the charges against Bugay for disloyalty, infidelity in the custody of documents, etc. by the committee designated, was held in his absence, and that this was an irregularity because the records fails to show why he failed to attend said investigation. For the purposes of the present case, we may even assume that since he was duly notified of the date of the hearing, that was sufficient compliance with the requirements of due process. But the CIR also found that when the report of the committee finding him guilty of the charges and recommending his expulsion, was submitted to the Board of Directors and was acted upon, Bugay was also absent for the reason that the members of the committee designated to notify him to be present failed to see him, because he was then in Lucena., Quezon (Tayabas). This to us is an irregularity. We believe that Bugay had a right to appear before the Board, question the correctness and validity of ,the findings of the committee, including its recommendation, and otherwise defend himself. The Board before acting on the report and recommendation of the committee, specially before

approving the same and passing a resolution expelling him from the Union, should have given Bugay an opportunity to be heard.

Again, the constitution of the Union provides that any resolution of the Board, such as expelling a member, should be approved or disapproved by the different chapters of the Union within ten days. The CIR found that only two chapters, those of the Hondagua Chapter and the Engineering Manila Yard Chapter, complied with this requirement. According to the petition, there are thirty-nine chapters of the Union; twenty-four voted for confirmation; four for rejection; five abstained; and six apparently took no action. Assuming that the two chapters easting their votes within the period of ten days voted for approval of the expulsion, then the remaining twenty-two chapters submitted their votes of approval beyond said period of ten days. But the petitioners claim that said period of ten days is merely directory, and that action by the different chapters on the resolution of the court may be given beyond the said period. We are not prepared to hold that the said period is directory instead of mandatory. The Union should clarify this portion of its constitution and by-laws for the information and guidance not only of the different chapters of the Union, but also of its members who may have occasion to invoke and rely upon the same. In the meantime, the doubt should be resolved in favor of the respondent, Bugay, who was expelled from the said Union.

Then we come to the matter of Bugay's motion for reconsideration of the resolution of expulsion. According to the finding of the CIR, and the record, the Manila chapter of the Union to whom Bugay belonged, asked for the reconsideration of the resolution of expulsion. The petition was granted by the Board which passed a resolution reinstating him. This resolution was referred to the different chapters by the Union, but unfortunately, the said chapters did not take any action either in favor or against said resolution. One view of the silence of the chapters is that, when they failed to either approve or disapprove the resolution of reinstatement, then the first resolution of expulsion stood. Another view, however, is that when the motion for reconsideration of the resolution for expulsion was filed, the execution of said resolution was suspended, and when said petition for reconsideration was not only approved but another resolution was passed by the Board reinstating him, then the first resolution for expulsion was automatically set aside and rendered void, so that even if the resolution for reinstatement may not be executed and enforced because it was not approved by the majority of the chapters, at the same time there is no valid resolution of expulsion that may be executed.

Finally, the petitioners insist that the petition for reconsideration of the decision of the CIR

of January 27, 1954 (195S) was improperly dismissed. It would appear that the rules of the Court of Industrial Relations provide that motions for reconsideration of the court's decision should be submitted within five days from the date of notice; that the motion shall be submitted with arguments supporting the same and that if the arguments cannot be submitted simultaneously with the motion, upon notice to the court the movant shall file the same within ten days from the date of the filing of his motion for reconsideration. According to the motion to dismiss the motion for reconsideration filed by Bugay, inasmuch as the motion for reconsideration was filed on February 8, 1955, then the argument in support thereof should have been filed within ten days thereafter, that is, on or before February 18, 1955; but up to March 2, 1955, when Bugay filed his motion to dismiss respondent's motion for reconsideration, he had not received a copy of said argument. Despite the claim of the Union that it had mailed an exact copy of said arguments on February 15, 1955, the CIR apparently gave credence to Bugay's claim and dismissed the motion for reconsideration. Said dismissal is in accordance with the rules of the CIR to the effect that failure to observe the period provided by said rules relative to the filing of motions for reconsideration and arguments in support thereof shall be sufficient cause for dismissal of the motion for reconsideration.

Finding no valid reason for disturbing the decision of the CIR and its order of denial of the motion for reconsideration, the same are hereby affirmed, with costs.

Paras, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, JJ., concur.