

101 Phil. 468

[G.R. No. L-9350. May 20, 1957]

CEBU PORT LABOR UNION, REPRESENTED BY ITS PRESIDENT ALEJO CABABAJAY, PETITIONER, VS. STATES MARINE CORPORATION, NICASIO PANSACALA, ANDRES TURA, ALFONSO VILLAJAS, AND PERPETUO REGIS, RESPONDENTS.

D E C I S I O N

FELIX, J.:

The present appeal is from a decision of the Court of First Instance of Cebu, Civil Case No. R-3272, to the Court of Appeals which the latter Court certified to Us pursuant to Section 17(3) of the Judiciary Act of 1948, on the ground that it involves a question of jurisdiction. The facts of the case may be summarized as follows:

On September 12, 1953, the Cebu Port Labor Union, a duly registered labor association, represented by its president, Alejo Cababajay, filed a petition with the Court of First Instance of Cebu for "recognition of stevedoring service and injunction" against the States Marine Corporation, Nicasio Pansacala, Andres Tura, Alfonso Villajas, and Perpetuo Regis. It alleged, among others, that the States Marine Corporation is a corporation duly organized and existing under the laws of the Philippines and could be served with summons through Mr. J. Gotianuy, whereas the other respondents are "capataces" of a group of laborers and/or stevedores; that petitioning Union was awarded a contract for the exclusive right of loading and unloading of the cargoes of the vessel M/V Bisayas formerly owned by Elizalde & Co., though at the time of the filing of the petition it was owned and operated by the States Marine Corporation; that said vessel would soon resume its voyage and it came to the knowledge of said petitioner that the stevedoring work will be given by the respondent corporation to the other respondents in violation of the agreement and/or understanding had between the Manager of the respondent corporation and the President of the petitioner Union; that said act would deprive petitioner of its right of loading and unloading the cargoes of said boat and will cause said petitioner irreparable loss and injury. The Union, therefore, prayed that a writ of

preliminary injunction be issued enjoining the States Marine Corporation from giving the work of loading and unloading the cargoes of the vessel M/V Bisayas to its correspondents or their representatives or agents or Cebu Port Labor Union vs. States Marine Co., et al. to any other person, and further enjoining the respondents from molesting and preventing the petitioner from peace fully doing said loading and unloading work; that after hearing, the injunction be made permanent; that the petitioner be declared with the right to load and unload the cargoes of the M/V Bisayas, thereby respecting the contract entered into by petitioner and Elizalde & Co. and subsequently enforced and continued by the respondent States Marine Corporation, and for such other relief consistent with law and equity.

The Court of First Instance of Cebu, upon receipt of the petition and considering it to be well-founded, ordered *ex parte* the issuance of the writ of preliminary injunction upon petitioner's filing a bond in the sum of P1,000, which writ was actually issued on September 14, 1953. The Sheriff's return of service of the writ of injunction showed that respondents Alfonso Villajas, Perpetuo Regis, Nicasio Pansacala and Andres Tura were personally served with said order. On the left part of said return there was a note of this tenor: "States Marine Corp. was dissolve on Oct. 17, 1952" followed by an illegible countersign.

On September 22, 1953, respondents Nicasio Pansacala, Andres Tura, Alfonso Villajas and Perpetuo Regis, through counsel, filed an *ex-parte* motion for dissolution (of the writ of preliminary injunction), alleging among other things, that said writ would cause great damage to the respondents since the defunct States Marine Corporation never awarded any contract to petitioner and that likewise the present owners of the vessel (M/V Bisayas) never entered into a contract with said petitioner relative to stevedoring work; that the allegations of the petition were insufficient since the respondent corporation was no longer existing; that granting that Elizalde & Co. and petitioner had a contract regarding the loading and unloading of the cargoes of the M/V Bisayas, it cannot be maintained that said petitioner had any right to follow this vessel to whomsoever it may belong; and that they were willing to post a counterbond in the sum of P2,000 for the dissolution of the writ of preliminary injunction. This motion was granted by the Court on September 22, 1953.

On October 2, 1953, respondents filed a motion to dismiss based on the following grounds: (1) That the Court has no jurisdiction over the parties affected and the subject matter of the action. It is respondents' contention that the case involves an action of a labor union against management and therefore falls within the exclusive jurisdiction of the Court of

Industrial Relations. (2) That the complaint (petition) states no cause of action. It is alleged that the petition mentions the exclusive right granted by Elizalde & Co. to petitioning Union, but there was no showing that in the transaction between Elizalde & Co. and the States Marine Corporation the contractual obligation of the former to the Union was considered in order that same may deserve the respect of the new owner of the vessel. (3) That respondent corporation has no legal capacity to sue or be sued, it having been dissolved on October 17, 1952, and therefore has no personality to enter or refuse to, enter into any contract, much less of threatening the petitioner as alleged in the petition. Petitioner filed on October 5, 1953, its opposition refuting the grounds of the motion to dismiss, to which respondents replied denying some of the averments of the petition and admitting some of them, and at the same time filing a counterclaim charging the President of the petitioning Union, Alejo Cababajay, with bad faith; that due to their malicious inclusion as respondents, they suffered mental anguish and anxiety and prayed that they be awarded p40,000.00 as moral damages, P10,000.00 as corrective damages and P10,000.00 for attorney's fees.

After the Union filed its answer to the counterclaim and the motion to dismiss was heard, the Court issued an order denying the respondents' motion to dismiss and ruled that it had jurisdiction over the case. The case was then set for trial and after the parties had rested their case, the Court rendered decision on December 11, 1953, finding that Mr. Joseph Gotianuy, President of the Royal Lines (which is the company operating the M/V Melliza, formerly the M/V Bisayas) agreed verbally to award the stevedoring work to the union headed by Alejo Cababajay; that such agreement was made orally because it was not the practice to put such kind of agreement in writing; that although respondent offered in evidence a certification purportedly made by Joseph Gotianuy to the effect that the stevedoring job of loading and unloading of cargoes on the M/V Melliza was awarded to the group of laborers headed by Andres Tura, said certification was made only after the filing of the present petition thereby strengthening the allegation that respondents' groups tried to grab from petitioner the work already given to them by said Gotianuy; that the preponderance of evidence militates in favor of petitioner, and declared:

"In view thereof, this Court hereby renders judgment recognizing petitioner Labor Union under Alejo Cababajay as the party with authority to render such services of loading and unloading the cargoes on the M/V Melliza while in the port of Cebu, orders the issuance of a permanent writ of injunction prohibiting respondent's laborers from molesting petitioner's laborers therein and

respondents to reimburse said, petitioners the corresponding wages that they failed to earn, with the costs against the respondents.”

Respondents’ petition to set aside judgment and for new trial dated December 16, 1953, and their motion to stay execution of judgment dated December 18, 1953, having been denied on December 19, 1953, respondents appealed therefrom ascribing to the lower Court the commission of the following errors, to wit:

1. In holding that it had jurisdiction over this case which involves a labor-management dispute;
2. In declaring defendant States Marine Corporation in default for failing to answer or appear within the statutory period;
3. In refusing to grant a new trial requested by the appellants in order to present a material witness Joseph Gotianuy whose testimony could not be had during the hearing for reasons beyond the control of the respondents;
4. In holding that the owner of the M/V Melliza had verbally agreed to recognize the petitioner Cebu Port Labor Union as the party who should undertake the loading and unloading of cargoes on the said vessel while in the port of Cebu;
5. In allowing the petitioner to undertake or perform indefinitely the stevedoring work on the M/V Melliza;
6. In not holding that the men under appellant Andres Tura are the proper and rightful group to undertake the loading and unloading of the cargoes on the M/V Melliza; and
7. In condemning the respondents to reimburse the petitioner the wages that its members allegedly failed to earn.

2. ?

As we have stated at the beginning of this decision, this case was originally appealed to the Court of Appeals which Court certified the same to us on the ground that it involves a question of jurisdiction. This question, however, en-folds two counts, i.e., the jurisdiction of the lower court (a) to take cognizance of the case, and (b) over the person of the respondent States Marine Corporation which, according to the records, appeared to be non-existent at the time of the institution of the petition herein, and for the further reason that it was never summoned in this case.

The question of jurisdiction of the lower Court to take cognizance of this case was put in issue not only in the appeal but likewise in the motion to dismiss presented by herein appellants in the lower court. It was maintained by respondents-appellants that paragraphs 4 and 5 of the petition speak of an alleged agreement between the management of the States Marine Corporation and the President of the petitioning Union and, therefore, that it falls within the jurisdiction of the Court of Industrial Relations. In support of such contention appellants cited Section 1 of Commonwealth Act No. 103, which states the following:

“Section 1.—*Jurisdiction—Judges.*—There is created a Court of Industrial Relations, hereinafter called the Court, which shall have jurisdiction over the entire Philippines, to consider, investigate, decide and settle all questions, matters, controversies, or disputes arising” between, and/or affecting employers and employees or laborers, and landlords and tenants or farm-laborers, and regulate the relations between them, subject to the provisions of this Act.

And to substantiate their claim that the controversy in the instant case is a dispute between employer and employees, respondents mentioned the case of Pambujan Sur United Mine Workers vs. Samar Mining Co., Inc.* G. R. No. L-5694, promulgated May 12, 1954, wherein this Court held that the refusal of the company to abide by the terms of the contract in spite of the repeated written demands of the plaintiff for compliance therewith is a dispute and therefore falls within the broad jurisdiction of the Court of Industrial Relations. However, this provision (Sec. 1 of Com. Act No. 103) granting

“broad” jurisdiction to the Court of Industrial Relations was curtailed by the passage of Republic Act No. 875, known as the Industrial Peace Act and approved on June 17, 1953, so as to limit the jurisdiction of the said Court to certain specific cases to the exclusion of the others. This matter was squarely passed upon in recent cases decided by this Court wherein it was stated 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 876); (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 Eight-Hour Labor Law (Commonwealth Act A’ii) ; and (4) when it involves an unfair labor practice (Section 5 (a), Republic Act 875)”—Philippine Association of Free Labor Lemons (PAFLU) et al. vs. Hon. Eienvenido A. Tan et al., G. R. No. L-9115, promulgated Auk. 31, 1966; Apolonia Reyes et al. vs. Hon. Bienvenido Tan et al., 99 Phil., 880.

It appearing that the present controversy is not one of the cases enumerated above which this Court held to be cognizable by the Court of Industrial Relations, the lower Court acted rightly in maintaining that it had jurisdiction to try and decide this case.

Anent the question of jurisdiction over the person of respondent States Marine Corporation, the following can be ” 94 Phil., 932 said: there is no denial that the vessel M/V Bisaxas, formerly owned by Elizalde & Co. or its subsidiary the Manila Steamship Co., was sold to the States Marine Corporation and later purchased by the Royal Lines, Inc., which renamed it the M/V Melliza. It is not disputed either that Joseph Gotianuy who was the President and General Manager of the States Marine Corporation is the same Joseph Gotianuy, who is presently the General Manager of the Royal Lines, Inc. But there is no showing whatsoever that the Royal Lines, Inc. has anything to do or any connection with the States Marine Corporation. Petitioner’s witnesses were unanimous in their testimonies that Joseph Gotianuy awarded the stevedoring jobs on the M/V Melliza to the labor group headed by Alejo Cababajay sometime in May, 1953, and when they received information that the work

would be given to another labor group they filed a petition in court against the States Marine Corporation and the four “capataees” to compel the corporation to respect their agreement and to enjoin the other respondents, from taking away their job. Respondents, however, were able to present a certification from the Securities and Exchange Commission to the effect that on *October 17, 1952*, a resolution dissolving the States Marine Corporation was duly registered in said Office, so that when the petition against said corporation was filed on *September 12, 1953*, the States Marine Corporation was no longer in existence.

Sections 1 and 2, Rule 3 of the Rules of Court provide the following: “

Section 1. WHO MAY BE PARTIES.—Only natural or juridical persons may be parties in a civil action.”

“Sec. 2. PARTIES IN INTEREST.—Every action must be prosecuted in the name of the real party in interest.”

From the prayer in the petition filed with the lower Court, it was clear that the petitioning Union, appellee herein, seeks to enforce the agreement entered into by Joseph Gotianuy and Alejo Cababajay, the President of said Cebu Port Labor Union vs. States Marine Co., et al. Union. Despite the fact that counsel for the other respondents called already the attention of the Court that the States Marine Corporation was non-existing and suggested that proper substitution or amendment of the petition be made, petitioner-appellee relied on the provision of Section 77 of the Corporation Law in its stand to include the said corporation as party respondent. Said Section 77 of the Corporation Law reads as follows:

“Sec. 77. Every corporation whose charter expires by its own limitation or is annulled by forfeiture or otherwise, or whose corporate existence for other purposes is terminated in any other manner, shall nevertheless be continued as a body corporate for three years after the time when it would have been so dissolved, for the purpose of prosecuting and defending suits by or against it and of enabling it gradually to settle and close its affairs, to dispose of and convey its property and to divide its capital stock, *but not for the purpose of continuing the business for which it was established.*”

Even a cursory reading of the above-quoted provision would convey the idea clearly manifested in the limitation "but not for the purpose of continuing the business for which it was established", that the 3-year period allowed by the corporation law is only for the purpose of winding up its affairs. Petitioner-appellee prayed that it be declared to have the right to the stevedoring work in question "thereby respecting the contract entered into by petitioner and the Blizalde & Co. and subsequently enforced and continued by the respondent States Marine Corporation". It appearing that the said States Marine Corporation was already dissolved at the time said petition was filed, and the vessel subject of the agreement having changed hands, it cannot be compelled now to respect such agreement specially considering the fact that it cannot even be made a party to this suit (Sec. 1, Rule 3, of the Rules of Court).

Appellee, however, contends that it seeks the enforcement of the agreement entered into by Joseph Gotianuy as manager of the Royal Lines, Inc. If this is so, We must bear in mind the provision of Section 7 of Rule 3, regarding indispensable parties, and that the Royal Lines, Cebu Port Labor Union vs. States Marine Co., et al. Inc., has not been made a party to this case. The decision making the award in favor of the petitioner-appellee enforceable against the States Marine Corporation cannot now be altered to suit appellee's defense by interpreting it to include those who should have been the real parties in interest, after its attention was called by none other than counsel for respondents. Moreover, as stated before, when the Sheriff tried to serve the summons and the writ of preliminary injunction on respondent States Marine Corporation, he found out that this corporation was no longer in existence, a fact which was made to appear on the left side of the Sheriff's return of service of the writ, followed by an illegible countersign which is not even that of Joseph Gotianuy, as stated by Tomas Cabrera, the person in charge of the wharf department of the Royal Lines, Inc. This being so, We fail to understand how the Sheriff of Cebu could have stated in his return of service of said writ that the States Marine Corporation was served copy of the writ and instructed them (all the respondents) to avoid molesting the herein petitioner on their work of loading and unloading of cargoes from M/V Bisayas, unless the Sheriff believed that service of the writ on Pansacala, Tura, Villajas and Regis constituted service thereof on the States Marine Corporation, which is evidently erroneous. The Sheriff must have served the summons and the writ of preliminary injunction at the same time upon the respondents and if the writ was not accepted and duly receipted by said respondent Corporation, We can reasonably infer that the summons on the latter was likewise not properly served on said party. That is undoubtedly the reason why it did not appear or take part in this controversy and,

therefore, it cannot be legally declared in default for lack of appearance as the trial Judge wrongly did in this case.

After We have come to the foregoing conclusions there seems to be no need for the determination of the other matters raised by appellants. *Cebu Port Labor Union vs. States Marine Co., et al.*

RECAPITULATION—From the foregoing considerations, it appears that the alleged verbal contract between the petitioning Union and Elizalde & Co. for the exclusive right of loading and unloading the cargo of the vessel M/V BISAYAS even if really entered into by said parties, could not give the petitioner any right to exercise the award of said job after the M/V Bisayas was bought by the respondent States Marine Corporation which by no means can be compelled to fulfill the part of said company's contracted obligation to the petitioner. The reasons are obvious, to wit: (a) because there is no sufficient and competent evidence on record to show the life and other conditions of the alleged verbal contract entered into between the petitioner and Elizalde & Co., nor the authority of the latter's representative to bind his principal; (b) because the States Marine Corporation is not and was not in existence at the time of the institution of this case and has no personality herein, for it has not and could not have been duly and properly summoned; (c) because the M/V Bisayas was not, at the time of the institution of this case, the property of the respondent States Marine Corporation but of the Royal Lines, Inc., which changed the name of "Bisayas" to that of "Melliza"; and (d) because the bare testimony of the members of the petitioning Union given in this case cannot overcome the certification of Joseph Gotianuy, General Manager of the Royal Lines, Inc., that the job of loading and unloading the cargo of M/V Melliza was awarded to the group of laborers headed by respondent Andres Tura.

Now, if petitioner's complaint has to be dismissed as against respondent States Marine Corporation because it has not been summoned in this case, it has no legal existence nor capacity to sue and be sued, and for lack of evidence to substantiate that it contracted any obligation towards the petitioner, We do not see how the respondent laborers can be compelled to decline or refuse the award that Gotianuy, the General Manager of the Royal Lines, Pangasinati Trans. Co., Inc. et al. vs. Court of Industrial Relations, et al. Inc., granted them in connection with the job of loading and unloading the cargo of the M/V Melliza as shown by the former's certification, and much less to reimburse the members of the petitioning Union the corresponding wages that they would have failed to earn.

Wherefore, the decision appealed from and the permanent writ of injunction ordered to be issued are set aside and judgment is hereby rendered dismissing the petition that gave rise to this action, with costs against the petitioner in both instances. It is so ordered.

Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Conception, Reyes, J. B. L., and Endencia, JJ., concur.

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