

102 Phil. 646

[ G. R. No. L-12820. December 20, 1957 ]

**SMB BOX FACTORY WORKER'S UNION (PAFLU) PETITIONER, VS. HON. JUDGE GUSTAVO VICTORIANO, OF THE COURT OF FIRST INSTANCE OF RIZAL, AND GONZALO SANCHEZ., RESPONDENTS.**

**D E C I S I O N**

**BAUTISTA ANGELO, J.:**

This is a petition for certiorari which seeks to enjoin respondent Judge from enforcing the preliminary injunction issued by him against the members of petitioning union restraining them from exercising acts of violence and intimidation in and around the premises of the San Miguel Brewery Box Factory located in Mandaluyong, Rizal instituted by co-respondent Gonzalo Sanchez against the members of the same union and other sympathizing with them for damages arising from said acts of violence and intimidation on the ground that said respondent Judge does not have jurisdiction to act thereon involving as it does an unfair labor practice that comes under the exclusive jurisdiction of the Court of Industrial Relations.

On August 22, 1957, one Gonzalo Sanchez filed an action before the Court of First Instance of Rizal against the members of the San Miguel Brewery Box Factory Workers' Union, hereinafter referred to as union, seeking to enjoin the latter from committing certain acts of violence, intimidation and other unlawful acts in and around the premises of the San Miguel Brewery Box Factory located in Mandaluyong, Rizal, and to recover certain damages arising from the commission of the aforesaid unlawful acts (Civil Case No. 4655). It was alleged that plaintiff is the contractor of the San Miguel Brewery, Inc. for the manufacture and repair of wooden boxes for all the products of said corporation with the condition that he would furnish the labor but the materials and the place of the factory would be provided for by the corporation. It was also alleged that the defendant union is an organization of laborers who were contracted by the plaintiff to work in the factory, the plaintiff having acted only as an independent contractor.

On May 4, 1947, the members of the union went on strike without giving previous notice to the plaintiff or to the Conciliation Service of the Department of Labor and, together with other members of the Philippine Association of Free Labor Union with which the union was affiliated, formed picket lines along the streets leading to the box factory thereby preventing the non-striking laborers and other employees of the corporation from working in the factory and making deliveries of the materials manufactured therein. On July 2, 1957, an agreement was entered into between the union and the plaintiff setting forth the conditions under which the striking laborers would agree to return to work, and after the agreement was executed, said laborers did in fact return to work, but on August 8, 1957, in violation of the agreement, the members of the union went again on strike and started picketing again the streets and premises where the factory is situated and in connection with said picketing, they performed and committed certain acts of violence and intimidation with the aim in view of preventing, as they did prevent, the non-striking laborers and employees of the corporation and of the factory from doing their work to the damage and prejudice of the plaintiff. Wherefore, plaintiff prayed that a preliminary writ of injunction be issued pending the trial of the case on the merits and, thereafter, judgment be rendered making the injunction permanent and ordering defendants to pay damages consisting in not less than P40 per day representing his unearned profits from August 8, 1957 until defendants shall have actually ceased doing the unlawful acts complained of Defendants, on August 28, 1957, moved to dismiss the complaint on the ground that its subject-matter does not come within the jurisdiction of the court. They alleged that on April 4, 1957, a prosecutor of the Court of Industrial Relations, acting on a complaint filed by the petitioning union, filed a charge for unfair labor practice against the San Miguel Brewery Box Factory owned and operated by the San Miguel Brewery, Inc., including one Pedro Bautista alleged to be the superintendent of the factory. Respondents therein filed a motion to dismiss contending that while the box factory is owned by said corporation, it is however operated by one Gonzalo Sanchez who acted as an independent contractor in connection with the work performed in said factory. The union denied that Sanchez was operating the factory as an independent contractor.

While this unfair labor case was then pending before the industrial court, the members of the union were locked out thereby forcing them to picket the premises of the factory. In the meantime, an agreement was entered into between the SMB Box Factory represented by Gonzalo Sanchez on one hand, and the union on the other, setting forth the conditions for the return of the workers. As a result, the workers returned to work, but on August 8, 1957, the members of the union were again locked-out in violation of the

agreement whereupon they again picketed the premises which gave rise to the institution of the action for damages by Gonzalo Sanchez against the union and other laborers who sympathized with them.

In view of the petition for preliminary injunction contained in the complaint, the court set a date for hearing to give the parties an opportunity to appear and argue their respective points of view, and after the hearing, but without receiving any testimonial evidence, the court granted the petition and issued the corresponding writ. To set aside this order on the ground of lack of jurisdiction, defendants have interposed the present petition for certiorari.

The only issue before us is whether the Court of First Instance of Rizal has jurisdiction to take cognizance of Civil Case No. 4655 instituted by Gonzalo Sanchez against the members of the petitioning union to prevent them from picketing and committing acts of violence in the premises of the factory operated by him, and in the affirmative, if the writ of preliminary injunction issued by it to prevent them from doing the aforesaid acts of violence during the pendency of the case was issued in accordance with law.

It is contended in behalf of respondent Gonzalo Sanchez that the Court of First Instance of Rizal can take cognizance of the case instituted by him because the same merely aims at preventing the members of the petitioning union from committing acts of violence in the premises of the factory he is operating and at recovering the damages that he may have suffered resulting from said acts of violence. Counsel contends that that case does not concern any labor dispute nor does it involve an unfair labor practice and so it does not fall under the jurisdiction of the Court of Industrial Relations.

We fail to agree with this contention. While it is true that the case instituted by Gonzalo Sanchez is merely one which concerns the picketing or commission of acts of violence by the members of the petitioning union and its purpose is primarily to prevent them from committing said unlawful acts and incidentally to recover whatever damages he may have suffered as an incident thereto, it cannot be denied that before the institution of said case there was already a formal complaint of unfair labor practice filed against the operator of the San Miguel Brewery Box Factory by the members of the said union wherein the same issue concerning the labor relation between the parties in said civil case was involved. The claim that Gonzalo Sanchez was not involved in the unfair labor case pending before the Court of Industrial Relations is not quite correct for precisely the respondents therein moved to dismiss the charge contending that the factory was then

being operated, not by the San Miguel Brewery, Inc., but by Gonzalo Sanchez as an independent contractor, which was denied by the union and this placed before the industrial court the issue of whether it is Sanchez or other subordinate employee of the corporation the one responsible for the unfair labor practice complained of. In the case instituted by Sanchez the same issue was raised by the union and so it can be said that the two cases are directly interwoven.

On all fours with the present is the case of National Garments and Textiles Workers' Union-Paflu (Premier Shirts & Pants Factory Chapter) vs. Hon. Hermogenes Caluag, et al., 99 Phil., 1067\*, wherein one Vicente Ang filed in the Court of First Instance of Rizal against a labor union an action for injunction because of certain acts of violence committed by its members as a result of a labor dispute that arose between them, and because such labor dispute was already involved in two unfair labor cases that were then pending between the same parties before the Court of Industrial Relations, this Court held that the case belonged to the exclusive jurisdiction of the latter court. The Court said: "It appearing that the issue involved in the main case is interwoven with the unfair labor cases pending before the Court of Industrial Relations as to which its jurisdiction is exclusive, it is evident that it does not come under the jurisdiction of the trial court even if it involves acts of violence, intimidation and coercion as averred in the complaint. These acts come within the purview of Section 9 (d) of Republic Act 875 which may be enjoined by the Court of Industrial Relations."

Even assuming *arguendo* that the Court of First Instance of Rizal could entertain the case instituted by Gonzalo Sanchez against petitioning union, still we declare that the writ of preliminary injunction issued by said court cannot have any legal effect because involving as it does a labor dispute between employer and employee, the same can only be issued following the procedure laid down in Section 9 (d) of Republic Act 875. The court *a quo* failed to do this but merely followed Rule 60, Section 6 of the Rules, of Court. Said order is therefore null and void.

"We believe however that in order that an injunction may be properly issued the procedure laid down in section 9 (d) of Republic Act. 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 under 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 to present

witnesses in support of the complaint and of the opposition, if any, with 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. (*Lauf vs. E. G. Shinner & Co., Inc., supra*)” (Philippine Association of Free Labor Unions (PAFLU), et al. vs. Hon. Bicenvenido A. Tan, et al, 99 Phil., 854; 52 Off. Gaz. (13) 5836).

Wherefore, petition is granted. The Court hereby sets aside the writ of preliminary injunction issued by respondent Judge, without pronouncement as to costs.

The writ of preliminary injunction issued by this Court is declared permanent.

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

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\* Unreported.

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