104 Phil. 17

[G. R. No. L-11907. June 24, 1958]

ERLANGER & GALINGER, INC., PETITIONER AND APPELLANT, VS. ERLANGER & GALINGER EMPLOYEES ASSOCIATION (NATU), RESPONDENT AND APPELLEE.

D E C I S I O N

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

On August 29, 1956, Erlanger & Galinger, Inc. filed in the Court of First Instance of Manila Civil Case No. 30535 alleging that the Erlanger & Galinger Employees Association (NATU), on August 21, 1956, declared a strike without the required thirty-day notice and for a trivial and unreasonable purpose, and in connection with said strike staged an unjustified and unlawful picketing, with acts, of violence and coercion, in front of its offices in Port Area, Manila, and praying for a temporary restraining order pursuant to the provisions of sec. 9 (d) of Republic Act 875 enjoining respondent union from coercing petitioner's employees from entering its premises and from unlawfully impeding or obstructing petitioner's business and molesting or harassing its officials and agents, and after due hearing, that said union be made to pay the damages suffered by petitioner due to such unlawful picketing.

The petition for a writ of preliminary injunction was set for hearing, wherein the respondent union was given the opportunity to cross-examine petitioner's witnesses, and thereafter, the lower court, finding that sufficient reasons existed for the issuance of the writ prayed for, issued the same upon petitioner's putting up a bond of P1,000.00.

Later, the respondent union moved to dismiss the petition on the ground that the same arose from unfair labor practices exclusively cognizable by the Court of Industrial Relations and that in fact, the petitioner company has filed with the Industrial Court, at the same time it filed the present petition, an unfair labor practice complaint against the union. Having thus been informed for the first time of the pendency of an unfair labor practice case between the same parties in the Court of Industrial Relations, and in view of petitioner's own admission that the labor dispute in question involved an unfair labor practice, the lower

court, on November 26, 1956, issued another order dismissing the petition without costs for lack of jurisdiction, and dissolving the writ of preliminary injunction. From this order, the petitioner company appealed.

We see no error in the order appealed from in so far as it dissolved the writ of preliminary injunction. As disclosed by the records, the strike and picketing in question arose from charges of unfair labor practices levelled by the respondent union against the petitioner company in that the latter allegedly was coercing and intimidating members of the union to resign therefrom on threats of dismissal from service, and because the petitioner refused to reinstate two of its employees as demanded by the union before the close of business hours of the day following the date the demand for reinstatement was made (Exhibit "D"). Upon the other hand, it also appears that on the same day that it filed the present petition for injunction with damages in the court below, the petitioner company also filed an unfair labor practice complaint against the respondent union for allegedly having declared a strike without the thirty-day notice required by law. Considering then, that both the reasons given by the respondent union for the strike and picketing in question, as well as the reasons given by the petitioner company for the alleged illegality of said strike, involve supposed unfair labor practices committed by both parties, the labor dispute between them clearly falls within the exclusive jurisdiction of the Court of Industrial Relations (sec. 5 (a), Rep. Act 875). And as the dispute is exclusively cognizable by the Industrial Court, so has it the exclusive power, in the exercise of its exclusive jurisdiction, to issue a temporary restraining order to enjoin any acts committed in connection with said labor dispute.

Thus, in the case of Philippine Association of Free Labor Unions (PAFLU), et al. vs. Tan, (99 Phil., 854; 52 Off. Gaz. No. 13, 5836) we said:

> *"With regard to activities that may be enjoined, in order to ascertain what court has jurisdiction to issue the injunction, it is necessary to determine the nature of the controversy.* When the case involves a labor dispute that affects a national interest and is certified to the Court of Industrial Relations, or refers to the Minimum Wage Law or Eight-Hour Labor Law, there is no doubt that it is this court that has jurisdiction over the incident. *The same thing may be said when the case involves an unfair labor practice, for under section 5 (a), Republic Act 875, the jurisdiction of the Court of Industrial Relations is exclusive*. * * *"
> (Emphasis supplied)

And in the case of National Garments and Textiles Workers Union-Paflu (Premier Shirts & Pants Factory Chapter) vs. Caluag, etc., G. R. No. L-9104, September 10, 1956, we held:

> "It appearing that the issue involved in the main case is interwoven with the unfair labor practice 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."

Petitioner company would distinguish the present case from that of National Garments and Textile Workers Union-Paflu vs. Caluag, *supra,* in that its unfair labor practice complaint in the Court of Industrial Relations was not filed ahead of the present case for injunction, and that in said unfair labor practice case, it was the complainant and not the respondent union. We can not see how both claims, even if true, can affect the exclusive jurisdiction of the Court of Industrial Relations over the labor dispute, involving as it does unfair labor practices, or confer jurisdiction on the lower court to issue a temporary restraining order under sec. 9 (d) of Republic Act 875 in connection with said dispute, a jurisdiction which, we have already stated, it does not have. As a matter of fact, the priority of the injunction case becomes relevant only because the subsequent filing of the unfair labor practice case may have been resorted to as a maneuver to divest the Court of First Instance of its jurisdiction, which can not be said to be the case here, where it is not the labor union but petitioner itself who has resorted to the Industrial Court. Even if no unfair labor practice suit has been filed at all by any of the parties in the Court of Industrial Relations at the time the present petition for injunction was filed in the court below, still the latter court would have no jurisdiction to issue the temporary restraining order prayed for if it is shown to its satisfaction that the labor dispute arose out of unfair labor practices committed by any of the parties. The parties would still have to institute the proper action in the Court of Industrial Relations, and there ask for a temporary restraining order under sec. 9 (d) of the Industrial Peace Act.

The reason for such exclusive jurisdiction is obvious. Since the picketing and strikes may be mere incidents or consequences of the unfair labor practice, it is but proper that the issuance of injunction be made by the court having jurisdiction over the main case, in order

that the writ be issued upon cognizance of all relevant facts.

While there is merit in petitioner's claim that the lower court should not have dismissed its entire petition on the ground of lack of jurisdiction, because said petition also asks for the payment of the damages suffered by the company on account of the alleged acts of violence and coercion committed by the respondent union in the course of its picketing of petitioner's premises, whether or not such damages are recoverable, and to what extent, would still have to depend on the evidence in the unfair labor practice case between the parties pending in the Court of Industrial Relations, and its final outcome. As the dismissal of the present action by the lower court was made without prejudice, such dismissal does not cause petitioner any substantial injury or damage, as it may institute another action for damages against the respondent union if its right to do so is held to exist by the Industrial Court.

The order appealed from is, therefore, affirmed, with costs against petitioner Erlanger & Galinger, Inc. So ordered.

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

Reyes, A. J., concurs in the result.

DISSENTING

MONTEMAYOR, *J.*,

For the reasons stated in my concurring and dissenting opinion in the case of Philippine Association of Free Labor Unions, et al. vs. Hon. Bienvenido Tan, et al., 99 Phil., 854, decision promulgated August 31, 1956. I dissent and reiterated my views therein expressed that the ordinary courts of the Philippines, including the Courts of First Instance, are authorized to issue writs of injunction to restrain the commission of violence, intimidation, coercion, malicious mischief, etc., even in cases involving labor disputes and unfair labor practices, as long as the conditions imposed by Section 9 of the Industrial Peace Act, are complied with in the issuance of the writ.

In the present case, there is more reason to give the Court of First Instance of Manila jurisdiction over the case in so far as the issuance of the restraining order is concerned, for

the reason that the action filed in said court was a suit for damages, and we have held in the case of Allied Free Workers' Union et al. vs. Judge Segundo Apostol et al., 102 Phil., 292, that the Court of First Instance has jurisdiction over suits for damages, even if said suit for damages arose from an industrial or labor dispute. In said case, there was a charge of unfair labor practice, and yet we held that the Court of First Instance had jurisdiction over Civil Case No. 577, and we denied the petition for prohibition.

The majority opinion in its penultimate paragraph states that whether or not damages are recoverable, and to what extent, because of alleged acts of violence and coercion committed by the respondent union in the course of its picketing, would have to depend on the evidence in the unfair labor practice case between the parties, pending in the Court of Industrial Relations, and that the dismissal of the present action by the Court of First Instance having been made without prejudice, the company may institute another action for damages against respondent union, *if its right to do so is held to exist by the Industrial Cour*t. I disagree. The causing of damages by strikers and picketers and their recovery by the company, has nothing to do with the merits of the case for unfair labor practice. If in the course of the strike and picketing, the union members cause damage to the properties of the company, such as through sabotage, burning of the buildings and equipment or damaging vehicles of the company, such as, delivery trucks by overturning them, destroying or breaking their windshields or their engines, such damages are imputable to the strikers and picketers and recoverable by the company regardless of whether the union or the company is guilty of unfair labor practice. Consequently, I cannot agree to the statement in the majority opinion that the company "may institute another action for damages against the respondent union if its right to do so is held to exist by the Industrial Court". In the first place, the statement would convey the idea that the success or failure of a suit for damages by the company depends upon the finding or holding of the Industrial Court. If the Industrial Court has no jurisdiction over a suit for damages caused in the course of a strike or picketing, how can said Industrial Court determine whether or not a company has the right to institute a suit for damages. Moreover, as already stated, there is absolutely no relation or connection between damages caused by strikers and picketers and the case for unfair labor practice. The company may be guilty of unfair labor practice, as for instance, if it illegally dismissed its laborers or employees, or practiced discrimination, but that does not mean that because of these acts of unfair labor practice, the striking or picketing union members can with impunity cause damage to or even destroy company property. For the same reason, not because the union or its members are guilty of unfair labor practice, are they answerable for damages if the same had been caused through the company's own fault.

Order affirmed.

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