

**UNIVERSITY OF NUEVA CACERES, JAIME HERNANDEZ, SR., AND
JAIME HERNANDEZ, JR., PETITIONERS, VS. HON. ARSENIO I.
MARTINEZ, AS PRESIDING JUDGE OF THE COURT OF INDUSTRIAL
RELATIONS, ...**

G.R. NO. L-31152. March 27, 1974

Ponente: BARREDO, J.

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BARREDO, J.:

Petition for certiorari, prohibition and mandamus, with preliminary injunction, relative to the orders of respondent Presiding Judge of the Court of Industrial Relations dated July 30, 1969 and October 6, 1969, which in effect held that the determination of whether or not a charge of unfair labor practice, investigated by the Prosecution Division of said court, should be dismissed outright because of any fatal defect of form or substance is the exclusive prerogative of said Presiding Judge, to the exclusion of the court en banc, on the theory that the function involved in such determination is not judicial but purely administrative and hence entrusted to his exclusive administrative authority as head of said court.

On June 17, 1969, respondent University of Nueva Caceres Guardians Union filed with the Bicol branch of respondent Court of Industrial Relations (CIR) an unfair labor practice charge against petitioners, accompanied by the joint affidavit of Benito de la Paz and George Offemaria. At the hearing of said charge before the prosecutor of the CIR, petitioners moved to dismiss the same on the grounds: (1) it is not verified; (2) it does not specify the particular provisions of Section 4(a) of the Industrial Peace Act, RA 875, as amended, supposed to have been violated, and (3) the supporting joint affidavit contains "falsities, misstatements and improbabilities on points otherwise material to the charge." Instead of dismissing the charge, the prosecutor, although finding the grounds of the dismissal motion to be more or less plausible, granted respondent Union five (5) days "to file an amended charge and amended affidavit," which said Union did on July 8, 1969. On July 14, 1969, petitioners moved to reconsider the ruling of the prosecutor, but on July 30, 1969, respondent Presiding Judge denied the same, admitted the amended charge and directed the Court Prosecutor to set the said amended charge for preliminary investigation. On August 16, 1969, petitioners moved again for reconsideration of the order of July 30, 1969. Apparently, petitioners assumed their motion for reconsideration would be acted upon by the court en banc, for when on October 6, 1969, respondent Judge issued an order, signed by him alone, denying it, the present petition was filed charging said respondent with having acted in excess of jurisdiction in acting on a matter addressed to and within the jurisdiction of the CIR en banc and of grave abuse of discretion in not ordering the dismissal of the charge upon the grounds invoked by them.

The assertion by respondent Judge, implicit in his order of October 6, 1969, of jurisdiction, to the exclusion of the court en banc, over the matter herein involved cannot be sustained. It is Our considered view that unlike the preliminary investigation of criminal cases by fiscals which are under the supervision and control of the Secretary of Justice,[1] the peculiar procedure prescribed by law in unfair labor practices partakes of the nature of judicial investigations, since they are conducted, to quote the language of the law, by "the Court or any agency or agent

designated by the Court", (Section 5(b), Rep. Act 875) similarly to the preliminary investigations undertaken by courts of first instance in election cases[2] and charges of violation of the Anti-Subversion Act.[3] Surely, no one can pretend that in such preliminary investigations, the courts of first instance are performing administrative or non-judicial functions. In such cases, the courts act in the same judicial capacity as they do in trying the cases on the merits and cannot, in any respect or measure, be controlled by the Secretary of Justice. The fact that the law authorizes the CIR to delegate the investigation to "any agency or agent designated by the Court" does not alter the nature of the court's function in the premises, just as the appointment of commissioners by the courts under Rule 34 does not make the procedure administrative or less judicial. Indeed, under the provision aforementioned, the investigation could very well be assigned to one of the judges of the CIR, and in that event, how can it be maintained that the function is administrative? Withal, it is implicit in this procedure that the work of the "agency or agent designated by Court" is as much the responsibility of the court as if it were the court itself that were acting directly.

The contention of respondent Judge that the function of overseeing the Prosecution Division of the CIR in its work of filing and dismissing charges of unfair labor practice is purely administrative in nature and falls within his exclusive competence is without merit. It is true that reference to the court in the law must be construed to mean the Presiding Judge and not the court en banc when the action contemplated is purely administrative in character, but, precisely, the point missed is that, as already explained, the Industrial Peace Act does not consider the investigation by the CIR, either by itself or thru an agent, as an administrative matter but a judicial one like the preliminary investigations in election and anti-subversion cases.

Maybe the development in the United States recounted by respondent Judge whereby the Taft-Hartley Law transferred from the National Labor Relations Board to its General Counsel the exclusive function and power to determine with finality whether or not an unfair labor practice charge should be filed with the Board is good, in the sense of avoiding that the Board be the accuser, investigator and judge all rolled into one, but there is nothing in either Commonwealth Act 103 or the Industrial Peace Act indicating that the American experience has influenced the enactment and phraseology of the pertinent provisions of our laws. Quite on the contrary, as already pointed out, Section 5(b) of RA 875 very explicitly confers the function of investigating unfair labor charges upon the CIR itself, albeit it allows the court to designate any other agency or agent for the purpose.

As regards the other impugned order of July 30, 1969, the result of the foregoing discussion and ruling is that the same should first be submitted to the CIR en banc for appropriate action. Much as the writer of this opinion feels that the objections thereto raised by petitioners are rather strained and are not very consistent with the interests of justice, which would not permit the throwing out of an unfair labor practice charge merely because of non-jurisdictional defects which can anyway be corrected, the Court would not pre-empt the power of the CIR en banc to make the corresponding ruling relative thereto in the first instance.

Before closing, it might be stated that, to be sure, the creation of the National Labor Relations Commission, may have altered the procedure in cases involving alleged unfair labor practices, but that point is not and cannot be raised anymore in this proceeding and We do not consider it necessary to pass on it now.

WHEREFORE, the petition for certiorari and prohibition insofar as the assailed order of July 30, 1969 is concerned is denied, without prejudice to the appropriate action on petitioners' motion for reconsideration thereof by the CIR en banc, but the petition for certiorari and mandamus relative to the impugned order of respondent Presiding Judge of October 6, 1969 is granted, the said order is hereby declared null and void and set aside, as in excess of jurisdiction, and respondent Presiding Judge or whoever is acting in his stead is ordered to refer the motion for reconsideration of petitioners dated August 16, 1969 to the CIR en banc for appropriate action. The writ of preliminary injunction issued by the Court on November 24, 1969 is made permanent, without prejudice to

the resolution by the CIR of petitioners' motion for reconsideration just referred to. The manifestation of Acting Presiding Judge Ansberto Paredes to the effect that he has desisted and continues to desist from following the practice of former Presiding Judge Martinez declared illegal in this decision is noted. Costs against private respondents.

Zaldivar, (Chairman), Fernando, Fernandez, and Aquino, JJ., concur.

[1] Estrella vs. Orendain, Jr. and Quilog, L-19611, February 27, 1971, 37 SCRA 640.

[2] Sec. 234, Revised Election Code of 1971 1 (R. A. 6388).

[3] Sec. 5, R.A. 1700; Sec. 16, Rule 112, Revised Rules of Court.

CONCURRING OPINION

ANTONIO, J.:

I concur in the main opinion, with the following additional observations:

In the United States, the provisions of the National Labor Relations Act, as amended by the Taft-Hartley Act of 1947, separate the prosecuting authority from the judicial authority in unfair labor practice proceedings.

According to Werne, "the General Counsel, who has supervision of the regional directors in the board's various regional offices and their staffs, constitutes the ultimate prosecuting arm of the agency, while the board's functions in unfair labor practice cases are restricted exclusively to decisional powers." Thus, the General Counsel is granted by said Act, "final authority to act in the name of, but independently of any direction, control, or review by the Board in respect of the prosecution of such complaints before the Board." [1] In other words, the aforesaid Act grants the General Counsel "final authority in the investigation of charges and the issuance of complaints." [2]

After showing the basic and fundamental difference between the "charge" and the "complaint," Rothenberg observes that "the proceedings (as the equivalent of litigation) commences only with the issuance by the Board of a complaint, from which time forward the Board's judicial functions come into play. Its prior acceptance of the charge and the resultant investigation are purely of an administrative character." [3]

Such is not the case in this jurisdiction, however, because section 5(b) of the Industrial Peace Act expressly confers upon the Court of Industrial Relations investigatory as well as decisional powers in unfair labor practice cases. It is important, therefore, to comprehend the unique and dual nature of the functional character of the court. In the exercise of its investigatory powers, in unfair labor practice cases, the court may conduct the investigation itself or authorize any of its members or designate any agent, such as its prosecutor, to conduct the investigation of the charges filed by the aggrieved party. In the latter case, the designated agent acts on behalf of the court which retains the final authority in the disposition of the charges and in the issuance of the complaint.

It is, therefore, a matter which is not embraced within the "administrative" authority of respondent Presiding Judge of the Court of Industrial Relations. The term "administrative" connotes, or pertains, to "administration, especially management, as by managing or conducting, directing or superintending, the execution, application, or conduct of persons or things." [4] It does not entail an opportunity to be heard, the production and weighing of evidence, and a decision or resolution thereon.

[1] House Conference Report No. 510, 80th Congress, 1st Session, p. 37; Amended Act, Sec. 3 (d), Sec. 153(d) 29 USCA (1947 Supp.)

[2] Benjamin Werne, The Law of Labor Relations p. 93, 1951 ed.

[3] Rothenberg on Labor Relations, p. 600.

[4] Fluet vs. MacCabe, 12 N.E. 2d. 93.

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