

**[WITH MINUTE RESOLUTION OF JULY 11, 1962]***G. R. No. L-17896. May 30, 1962*

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

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Appeal by certiorari from a decision of the Court of Industrial Relations (Case No. 2014-ULP) finding the carrier Angat-Manila Transportation; its operator, Valentin Fernando; and its manager, Gorgonio Cruz, guilty of unfair labor practice, and sentencing the company to pay back wages to the complaining employees "from March 11, 1959 up to the time of actual payment".

The case originated in a complaint filed by the court prosecutor on behalf of certain members of the Angat Labor Union listed in Annex "A" of the complaint, charging the Angat-Manila Transportation (hereafter termed Angat for brevity's sake), its officers, and the Villa-Rey Transit, Inc., with unfair labor practice for discharging complainants on account of labor activities. After due trial, the Industrial Court found that on 10 February 1959, the Angat Labor Union, composed of employees of Angat-Manila, had registered as such union with Permit No. 2683-IP (Exhibit A); that on 20 February 1959, the Union prepared written proposals to the company for a collective bargaining agreement, but the company accountant, a relative of the operator, Valentin Fernando, admonished its officers not to course said proposals, promising that the company would buy more buses to accommodate all unionists; that to induce complainants to dissolve the Union, the company manager, Gorgonio Cruz, invited them to eat at a hotel and told them that his father-in-law (Fernando) was worried, and if the union was not discontinued, they would sell the business; and that effectively, to avoid union demands, Angat sold the business to Villa-Rey Transit by written contract, stipulating that:

"5.—It is hereby understood and agreed between the SELLER and the BUYER that the BUYER assumes absolutely no obligation with reference to employees of the SELLER in employing them or in paying them any, amount for salary, wages, or indemnity because of their loss of employment;"

and shortly thereafter, one of the Villa-Rey officials informed the employees of the sale and then and there summarily dismissed 128 union members.

The court below considered that Villa-Rey Transit, as buyer, had a right to rely on the quoted stipulation, and merely ordered it to give priority in reemployment to the unionists; but held the Angat-Manila Transportation responsible for the laborers' back pay.

While Angat defended by claiming that the sale was forced by operational losses, the Court of Industrial Relations discounted this assertion, because the company failed to produce its books of account in support of its claim; because from the testimony it appeared that the business was picking up in 1958, so that the alleged loss of 117,874. 40 for the first quarter of 1958 was unnatural and incredible; and because of the promise made to the unionists that if their demands were withheld the company would buy additional buses, indicating that the financial situation of the company enabled it to contemplate such a purchase.

The main argument of appellant is that since the business was sold to Villa-Rey Transit, Inc., on March 11, 1959,

and the dismissal was made after that date by officials of Villa-Rey, there was no employer-employee relation between him and the complainants to give jurisdiction to the Industrial Court.

In the first place, the court below disbelieved that the sale was really made on March 11, because Villa-Rey's copy of the sale was dated April 7, 1959, and Angat made no protest against this evidence. In the second place, the employer-employee relation is not necessarily terminated by a severance that was illegal and in violation of section 4 (a) (1) of the Industrial Peace Act, and such illegal severance does not toll the jurisdiction of the Industrial Court. If an employer is guilty of unfair labor practice when he directly discharges his employees to forestall a demand for collective bargaining, he certainly should not be allowed to evade responsibility if he indirectly cause<sup>3</sup> that discharge by selling to a company that he knows is unwilling to accept his employees. Angat does not challenge the court's rejection of its claim of operational losses, and the only motivation of record for the sale of its business and assets is the desire to avoid a collective bargaining negotiation, which is in violation of the law. Having indirectly procured the discharge of its employees, Angat can not evade responsibility on the plea that it is no longer in a position to reinstate them. Such a case remains a labor conflict within the jurisdiction of the Industrial Court, specially since the appellant's maneuvers to block collective bargaining started even before the sale of its business, when the manager attempted to induce the unionists to dissolve the union.

The decision of the Court below, in absolving Villa-Rey Transit from the payment of back wages, is supported by *Visayan Transportation vs. Java, et al.*, 93 Phil., 962; 49 Off Gaz 4298, wherein we have ruled that, unless expressly assumed, labor contracts are not enforceable against a transferee of an enterprise, labor contracts being in personam. On the other hand, that a transferor in bad faith may be held responsible to employees discharged in violation of the Industrial Peace Act has been decided by this Court in *Majestic Employees Association vs. Court of Industrial Relations*, G. R. No. L-12607, promulgated on February 28, 1962.

With regard to the payment of back wages, we agree with appellant that to hold him liable for the back wages of the complainants until they are reinstated by the Villa-Rey Transit, Inc., over which he has no control, may well result in the appellant becoming obligated to make the monthly wage payments indefinitely. Yet justice would not be satisfied with the mere payment of severance pay to those employees, because of the appellant's bad faith in procuring their discharge.

All things considered, we believe it equitable to sentence appellant to the payment of six (6) months' wages to the complainants, it being a reasonable expectancy that within that period those improperly discharged will have found ether suitable employment with the exercise of due diligence.

Thus modified, the decision appealed from is, in all other respects, affirmed. Costs against appellant.

Padilla, Bautista Angela, Labrador, Concepcion, Barrera, Paredes, and Dizon, JJ., concur.

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### MINUTE RESOLUTION OF JULY 11, 1962

"In G. R. No. L-17896, *Fernando vs. Angat Labor Union*, the Court, passing upon the motion for clarification of petitioner Fernando and the opposition thereto of respondent Union, resolved to modify the decision of May 30, 1962, by providing that union members already reemployed by Villa Rey Transit shall be entitled to back wages only from the date of dismissal (March 11, 1959) to that of re-employment, but in no case less than the severance pay provided by Statute and not more than six months back wages."

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