

## **DAVID M. ALMEDA, ET AL., (PEPSI-COLA LABOR ORGANIZATION) PETITIONERS VS. THE COURT OF INDUSTRIAL RELATIONS AND PEPSI-COLA BOTTLING COMPANY, INC., RESPONDENTS.**

*G.R. No L-7425. July 21, 1955*

Ponente: MONTEMAYOR, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/0e7e79cb2863/>

---

### **MONTEMAYOR, J.:**

The facts pertinent in the present petition for review by certiorari, necessary for its determination are those found and related in the order of May 16, 1952, issued by the Judge Jose S. Bautista of the Court of Industrial Relations who heard the main case No. 697-V, which we accept as conclusive upon its Tribunal and reproduce below for purposes of reference:

"Pepsi-Cola Bottling Company, Inc. prays that the strike staged at 8:55 p.m. on May 8, 1952, be declared illegal. At the Hearing of this petition, the respondents failed to appear although notices of said motion have been served by the bailiff to them and to their counsel.

"The facts are these:

1. On March 12, 1952; the respondents presented to the president of the company, Mr. John P. Clarkin, certain demands (Exh. A). The latter, replying that he would be glad to meet the respondents, invited them for a conference (Exh. D), but they did not care to see the president, until Mr. Clarkin left the Philippines on April 21. On April 23, the respondents submitted to Mr. Jose Pascual, Treasurer of the company, new demands Exh. C, giving the management two days to answer. Knowing that Mr. Pascual had no power to act on their demands, they agreed to wait until April 28 for the reply of Mr. Clarkin.

"A conference was held on April 28 between Mr. Pascual and respondent Antonio Ramos, as president of the Pepsi-Cola Labor Organization, who was assisted by Attys. Cid and Rafael.

"In the said conference, Mr. Pascual told the respondents that he cannot grant their demands, especially the demand for collective bargaining for the reason that neither the Pepsi-Cola Labor Organization has personality to enter into such contract because it has not yet been registered in the Department of Labor, nor Mr. Pascual has authority to act on the petition, being a mere treasurer of the company. Hence, he promised to relay the petition to Mr. Clarkin. In spite of this assurance, respondents threatened to declare a strike.

"2. On April 30, the company filed its petition praying that the respondents be enjoined from declaring a strike. The Court summoned the respondents for a preliminary conference. The summons was received by the persons whose signatures appear in the list (pp. 16, 17 and 18 of the record) but the rest refused to accept it, saying it was their president Ramos who was in charge to appear before the Court. (Officer's return of service and bailiff's testimony, t.s.n. p. 6, hearing of May 13, 1952).

A preliminary conference took place on April 30, and May 2, 1952, between the company represented by its counsel, and the respondents by Antonio Ramos, the president of the Pepsi-Cola Labor Organization. On April 30, Ramos asked that the preliminary hearing be postponed because he was not able to study the petition and

that he had no attorney and that his lawyers Vicente A. Rafael and Cipriano Cid should be notified to appear in Court. The conference was reset for May 2, at 9:00 a.m.

"On this day, May 2, Antonio Ramos, appeared in company with his co-respondents Juan Grizalba and Pedro Amante and he informed the Court that Attys. Vicente A. Rafael and Cipriano Cid were the counsel for the respondents but could not appear then as they were busy with the hearing of other cases. In other words, Attys. Rafael and Cid failed to appear in said conference, although there is evidence in the record that they were in this building on the morning of May 2, when this case was called for hearing. (Testimony of Jose Pascual, p. 22, hearing of May 13, 1952).

"On that occasion, the undersigned, knowing from the minutes of the meeting of the Board of Directors of the company (Exh. D) that Treasurer Pascual had no authority to act on the respondent's demands, expressed the opinion that Mr. Clarkin should be given an opportunity to act on said demands; and consequently, the Court, upon agreement of both parties, postponed the hearing of the case for May 15, at which time Mr. Pascual would have received the answer of Mr. Clarkin. In said hearing, the Court asked Antonio Ramos if he and his co-respondents would go on strike at least not before May 15, and Ramos repeatedly assured the Court that they will not declare a strike nor even had the intention of doing so. In view of such assurances, the undersigned said the Court could issue the injunction restraining the respondents from declaring a strike but because the Court had been assured by president Ramos and believing that the president of the union would fulfill the promise, the Court viewed that the issuance of an injunction would not be necessary.

"3. On May 3, 1952, Antonio Ramos presented another petition to Mr. Jose Pascual (Exh. E). This petition contained five (5) demands which were the same demands 4, 7, 15, 16 and IS of the petition of April 23, 1952, Exh. C. In conformity with Exhibit E, Mr. Pascual transmitted to Mr. Clarkin said second petition by telegram, copy of which was given to the officers of the union.

"On May 8, at 8:55 p.m. the respondents went on strike. The syrup, which was usually prepared and placed in the tanks, from 5:00 to 11:00 p.m., was spoiled when the workers left, because unless it is completely mixed, it sours. The syrup was worth about P2,000.00

"On the morning of May 9, the respondents formed the picket line and prevented, by means of threat, the other employees of the company and the brokers, distributors and drivers to. enter the premises of the company. (Testimonies of Alberto Araullo, Jose Matias, and William Yonan, t.s.n. pp. 37-50, hearing of May 13, 1952). Great amount of empty bottles belonging to the company were unloaded in the streets and in a private lot, because the trucks were not permitted to go into the company's compound. (Exhs. F, F-1 and F-2). Due to said strike and picketing the company has suffered damages in the amount of P4,000 daily, up to the present.

"Taking these facts into account, the Court finds that the strike was unjustified and it is being carried out through unlawful means. Unjustified, because all the strikers knew beforehand that Treasurer Pascual had no authority to act on their demands, and consequently, they should have waited for Clarkin's answer, before staging the strike. Unjustified, because it was declared after the respondents, through their legitimate representatives, have promised and assured the Court that they would not go on strike before May 15. The picketing, which is the means employed in carrying it on is illegal, because the strikers resorted to threat and intimidation.

"Wherefore, the Court hereby declares said strike unjustified and illegal and orders the respondents to dissolve the picket line."

SO ORDERED.

Manila, May 16, 1952.

(Sgd.) Jose S. Bautista  
Associate Judge"

We understand that said order was eventually appealed to this Tribunal but that we refused to give it due course, thereby indirectly giving it our sanction as to its correctness and validity and rendering it final (Rule 44, Section 4, of the Rules of Court).

On May 16, 1952, after Jose Pascual, Treasurer of the Pepsi-Cola Company who at the time was in charge of the same in the absence of Mr. Clarkin who was then in the United States, learned of the order of May 16th declaring the strike illegal, he invited the strikers to resume work on condition that their employment was on a temporary basis, because it was only the President of the company who had the authority to appoint permanent employees, and he gave said strikers 48 hour's within which to return to work. On May 19th he posted notices on the main entrance of the company's premises stating that those who wanted to be reinstated temporarily should see the official in charge not later than 4:00 p.m. on May 26, 1952. Up to May 28th 50 of the strikers out of the 82 members of the Pepsi-Cola Labor Organization returned to work, but 32 of the strikers refused to work under a temporary basis and on May 19th advised the court and the company that they were willing to resume work only under the conditions existing before the strike on May 8, 1952, in order to maintain the status quo. These 32 strikers later filed a petition for reinstatement in incidental case No. 697-V(1).

According to the findings of Judge Bautista contained in his order of June 12, 1953, of the 50 union members readmitted, 19 were later dismissed on September 6, 1952 but together with this 19 dismissed union members the company also dismissed 42 non-union members. After dismissing these 19 union members and the 42 non-union members, no replacements were hired by the company. The said 19 dismissed union members later filed a petition for reinstatement in incidental case No. 697-V(2). Judge Jose S. Bautista heard and decided these two incidental cases 697-V(1) and 697-V(2). With respect to Case No. 697-V(2), in his order of June 12, 1953, he found that the said 19 union members readmitted on a temporary basis were given the same salary, privileges and benefits given them before the strike, the only difference being that their re-admission was on a temporary basis; that it had to be on such basis because only the President of the company Mr. Clarkin who had the authority to hire permanent employees, was in the United States; that the terms and conditions, of the contract of re-admission signed by the 19 strikers were the same as those signed by the non-strikers and non-unionists; that in August 1952, all the laborers hired in May executed a second contract wherein they agreed to extend their temporary status, which second contract confirmed and ratified the due execution of the first contract; that upon their dismissal, they received one month separation pay in lieu of one month advance notice, and they accepted it without protest and even requested letters of recommendation from Mr. Clarkin; that there was nothing in the contracts of re-employment executed in May and August, 1952 which was contrary to law, morals or public policy, and that the said 19 laborers having been employed on temporary basis, the company was justified in dismissing them. We agree to this finding and holding of Judge Bautista.

Now, as regards Case No. 697-V(1), it was found that after the 32 strikers refused to go back to work under a temporary basis, the company employed 68 newcomers non-unionists, the need for this larger number of laborers being the extra work during the summer months. In his order of June 12, 1953, Judge Bautista held that although the strike was declared unjustified and illegal, still the company had no power to dismiss the strikers or to hire workers to take their place without court authority; and that even when a strike is declared illegal, only those strikers who committed illegal acts lose their right to continue working in the company. He therefore, in said order directed the company to reinstate the said 32 laborers, but without backpay, and to submit to the court the names of the strikers who committed the illegal acts in furtherance of the strike, for proper action.

Both parties, the company and strikers moved for reconsideration of said order of June 12, 1953. In a resolution dated January 4, 1954, penned by Associate Judge Modesto Castillo and concurred in by Presiding Judge Arsenio C. Roldan and Associate Judge Juan E. Lanting, the majority reconsidered the said order of June, 1953. Associate

Judges Jose S. Bautista and V. Jimenez Yanzon dissented in separate opinions voting to affirm the order of June 12, 1953. The strikers David M. Almeda, et al, have filed the present petition for review by certiorari of the aforementioned resolution of the Court of Industrial Relations of January 4, 1954 and "to issue an order to reinstate all the strikers except those who in the judgment of the Court committed specific unwarranted acts."

In relation to Case No. 697-V(2), it is clear that there is no merit in the claim for reinstatement of the 19 strikers who after the strike had been declared illegal, had accepted re-employment under temporary basis and who were later dismissed, accepted their dismissal including separation pay in lieu of notice, and even asked for recommendations from the President of the company. As Judge Bautista said they voluntarily entered into two contracts of employment under a temporary basis, under which contract the company had the right to dismiss them when their services were no longer needed and were given their separation pay.

Case No. 697-V(1) requires a more serious consideration. The question involved is the effect of an illegal and unjustified strike on the relation between the company and the strikers. The majority in the industrial court held that by staging an unjustified and an illegal strike the strikers automatically forfeited their right to continue as employees and laborers of the employer, while the dissenters equally claim that only those strikers who had committed illegal acts such as employing force, coercion, intimidation, etc., lose their jobs and that the rest of the strikers continue their relations with the company and should be reinstated but without backpay. This Tribunal has already ruled more than once upon this matter.

In the case of National Labor Union Incorporated, et al., vs. Philippine Match Factory Co., and the Court of Industrial Relations, 70 Phil. 300, the Labor Union demanded the immediate dismissal of one Pablo Pabalan, a factory foreman for supposedly assaulting one named Dineros. Acting upon said demand, the company indorsed the case to the City Fiscal's Office where it was dropped for failure of the complainant to furnish the address of the accused. In spite of the dropping of the case, the company itself thru its attorney caused the case to be reopened in order to give the company and the labor union the benefit of an impartial investigation. While the Fiscal was investigating the case, and although he had announced that he would release the result of his investigation on September 18, 1939, the members of the union employed by the Match Company Went on strike on September 16th or two days before. The strike was certified by the Secretary of Labor to the Court of Industrial Relations on September 21, 1939. On October 11th while the case was pending hearing 15 strikers representing themselves to be duly authorized representatives of all the strikers addressed a letter to the acting Manager seeking their admission for re-employment. The Manager declined to take action while the dispute was pending adjudication by the industrial court. Thereupon, the 15 strikers through counsel filed a motion for an order to compel the company to re-admit the strikers. The industrial court rendered judgment denying the petition to dismiss the company's foreman as well as the petition for the re-admission of the strikers to their employment. Against said judgment the Labor Union appealed to this Tribunal. We held that the strike was clearly unjustified because despite the attention given by the company to the laborers' demand for the dismissal of its foreman for an alleged assault, the company even asking the Fiscal to reopen the case after he had dropped it, the laborers went on strike without awaiting the result of the Fiscal's investigation of the case; and we said that as a consequence of such unjustified strike, the strikers automatically ceased in their employment and that the company may not be compelled to re-admit them. It will be noticed that in said case, no acts of violence, coercion, intimidation or sabotage were involved. The strike was found merely to be unjustified, and yet the strikers were declared to have forfeited their status as workers of the company. Judge Bautista in his dissenting opinion in the present case, to support his stand that even in the case of an illegal strike, only those strikers who committed illegal acts lose their jobs, states that "The Supreme Court pointed out in the case of National Labor Union vs. Philippine Match Co. (70 Phil., 303) that not all the strikers could be punished but only those who commit specific unwarranted acts." We have carefully examined said case of National Labor Union vs. Philippine Match Co., supra, but we failed to

find any support or basis for said statement.

The doctrine laid down in the case of *National Labor Union vs. Philippine Match Factory Co.*, supra, was affirmed and reiterated by this Court in the case of *Luzon Marine Department Union vs. Arsenio C. Roldan, Luzon Stevedoring Co., et al.*,[\*] G. R. No. L-2660, May 30, 1950 (47 Off. Gaz. Supp. No. 12, p. 136). In that case the labor union presented to the Luzon Stevedoring Co., a petition containing 12 demands and later filed the corresponding case with the Court of Industrial Relations praying that the Stevedoring Company be directed to comply immediately with the demands. After hearing the petition for dismissal and after receiving evidence Judge Bautista of the CIR issued an order denying the motion to dismiss and declaring that the court had jurisdiction over the case; but before receipt of the notice of said order 65 alleged members of the petitioning union went on strike without previously notifying the respondent company. Thereafter, the union asked the CIR to issue a restraining order to prevent the respondent company from employing strike breakers. Judge Bautista issued an order enjoining the strikers to return to work and the respondent company to reinstate them in the positions they were occupying before the strike. On motion for reconsideration of this last order of Judge Bautista the CIR en banc set aside said order on the ground that the strike was unjustified and illegal. On appeal from that resolution of the CIR en banc we affirmed said resolution and held that the right of an employee, tenant or laborer to be continued in the service of the company for whom he is working under the last terms and conditions existing before the dispute arose, carries with it the corresponding obligation on his part not to strike or to return to work if he has already done so, because if he goes on strike and the courts later find said strike to be unjustified or illegal he has to suffer the consequences, one of which, is the loss of his post or job in the company. Reiterating the ruling laid down in the case of *Philippine Match Factory Co.*, supra, this Tribunal said:

"\* \* \* Conformably to these principles the Supreme Court, in the case of *National Labor Union, Inc. vs. Philippine Match Company* (70 Phil., 300) declared illegal and unjustified a strike motivated by an unreasonable demand of the, labor union for the dismissal of a factory foreman. In that case the Court, speaking through Mr. Justice Moran, held that although Commonwealth Act No. 103 recognizes, in a negative way, the laborers' right to strike, it also creates all the means by which a resort thereto may be avoided, 'because a strike is a remedy essentially coercive in character and general in its disturbing effects upon the social order and the public interests'; that 'as the strike is an economic weapon at war with the policy of the Constitution and the law, a resort thereto by laborers shall be deemed to be a choice of a remedy peculiarly their own, and outside of the statute, and, as such, the strikers must accept all the risks attendant upon their choice'; and that when the petitioners declared a strike even before the outcome of the investigation by the company of their complaint against the factory foreman was announced, 'and without previously having resorted to any of the pacific means provided by law, they acted unreasonably, and the law cannot interpose its hand to protect them from the consequences of their behavior. Their cessation from their employment as a result of such an unjustified strike is one of such consequences which they must take by the choice of a remedy of their own, outside of the statute.'"

This Court then concluded:

"To summarize, the rulings of this Court in the cases hereinabove cited are:

(1) The law does not look with favor upon strikes and lockouts because of their disturbing and pernicious effects upon the social order and the public interests; to prevent or avert them and to implement section 6, Article XIV of the Constitution, the law has created several agencies, namely: the Bureau of Labor, the Department of Labor, the Labor Management Advisory Board, and the Court of Industrial Relations. See Sec. 4, Commonwealth Act No. 103; and Executive Order No. 158, dated July 28, 1948.)

(2) The law does not expressly ban strikes except when enjoined against by the court; but if a strike is declared for a trivial, unjust or unreasonable purpose, or if it is carried out through unlawful means, the law will not

sanction it and the court will declare it illegal, with the adverse consequences to the strikers.

(3) If the laborers resort to a strike to enforce their demands, instead of resorting first to the legal processes provided by law, they do so at their own risk, because the dispute will necessarily reach the court and, if they later should find that the strike was unjustified, the strikers would suffer the adverse consequences.

"The Court of Industrial Relations has merely applied to this case the settled doctrines of this Court as above summarized. We reaffirm those doctrines and must, consequently, sustain the resolution complained of."

It is not necessary for the purposes of this decision to rule upon acts of illegality committed in the course of the strike and their effect on the status of the strikers as employees of the company. We agree with the majority of the CIR in its appealed resolution, that the strike in the present case was clearly unjustified because the petitioners-appellants went on strike knowing that their demands could not be acted upon by the Treasurer of the company in the absence of its President who was then in the United States, and they did not wait until their demands could be transmitted to said President and acted upon by him. Not only this, but the strikers through their representatives had misled, not to say deceived the trial court. Despite the assurances given by them that they would not go on strike and did not even have the intention of striking, they went on strike just the same. Said strike may, in a way, even be regarded as equivalent to a violation or disobedience of an order of the Industrial Court. When the Union commenced these proceedings before the CIR the Union members threatened to immediately go on strike. Sensing this attitude of the workers, the Company petitioned the CIR to issue an order to prohibit the threatened strike. Judge Bautista said that he was ready and was about to issue a writ of injunction against the laborers and employees not to strike, and that the only reason he did not issue the writ was because of the assurances given to him by the Union, assurances which were not fulfilled. It should also be stated that the strikers unanimously voted in favor of the strike. As a result of the unjustified strike, the syrup daily prepared and placed in the tanks valued at P2,000 soured and became a loss; and because the strikers by means of threats, prevented the other employees, and the brokers, distributors and drivers of the Company to enter its premises, the Company suffered damages in the sum of P4,000 daily, up to May 16, 1952.

Under the doctrine laid down in the cases of the Philippine Match Factory Co., and the Luzon Marine Department Union, *supra*, where no acts of violence were involved and where the strikes were declared merely unjustified, and yet the workers were held to have forfeited their status as laborers of their employer, which doctrines we again reiterate and reaffirm, we hold that by reason and as a consequence of the unjustified strike herein staged, the relation of employer and employee between the Company and the strikers was severed and the former may not be compelled to reinstate the strikers as employees. The resolution appealed from is affirmed, with costs.

Bengzon, Acting C.J., Padilla, Reyes, A., Jugo, Bautista Angelo, and Labrador, JJ., concur.

Concepcion and Reyes, J. B. L., JJ., concur in the result.

---

[\*] 86 Phil., 507.

**ABOUT BATAS.ORG**

# Study smarter at BATAS.org

*The Philippine bar review and law-school companion built around how your brain actually remembers.*

**The complete Philippine law library - free for everyone.**

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

**Audio case-brief lectures.**

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

**Bar review built on the science of memory.**

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

**The full law-school curriculum.**

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

**Mock exams that tell you where you stand.**

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

**A study planner that keeps you on pace.**

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

**Start free at <https://batas.org>**

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.