

**THE SCOTY'S DEPARTMENT STORE, PETITIONER, VS. THE
HON. MODESTO CASTILLO, ETC., THE NATIONAL LABOR UNION,
AND THE INTER-ISLAND DOCKMEN AND LABOR UNION,
RESPONDENTS.**

G.R. No. L-7493. May 17, 1955

Ponente: REYES, A., J.

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REYES, A., J.:

On January 27, 1954, Scoty's Department Store filed a petition in the Court of Industrial Relations praying that a certification election be ordered held to determine which, as between the National Labor Union and the Inter-Island Dockmen and Labor Union, was to be the exclusive bargaining representative of its employees. For brevity the parties will hereafter be referred to as the STORE, NATIONAL LABOR, and INTER-ISLAND UNION, respectively. Twenty-three days thereafter, the STORE brought the present action for mandamus alleging that "since the filing of the petition x x x no action has been taken thereon by Branch II of the Court of Industrial Relations which take cognizance thereof and is presided over by the respondent the Hon. Modesto Castillo,"who, it is also alleged, "has countenanced the repeated postponement and dilatory tactics employed by respondent labor union," and praying that the respondent judge be comanded "to forthwith rule upon the petition for certification election." And alleging further that the dilatory tactics employed by the respondent labor unions have prevented the STORE from negotiating with its employees on terms of employment and specially on the separation of those hired for the Christmas season only and have caused and continue causing less to the STORE in the sum of P300.00 a day, plaintiff also prays that the said labor unions be made to pay damages.

From the answer and supporting papers submitted by respondents it appears that as soon as the petition was docketed in the court below summons were issued to the parties with an early date set for hearing, and hearing was in face held on February 4 and 10; that the hearing was interrupted because of a motion to dismiss filed by the NATIONAL LABOR on the ground that there was then pending against the STORE a case for unfair labor practice whose resolution was essential to a free expression of the will of those who were to vote in the certification election; that the said motion to dismiss was denied on February 27, but that on March 8 the NATIONAL LABOR filed a motion for reconsideration, followed later by a supporting memorandum, and pending resolution of the motion by the court in banc the respondent judge was naturally inhibited from acting on the case.

At the hearing in the Court, no one appeared for plaintiff, and its charge of inaction on the part of the respondent judge and the alleged dilatory tactics on the part of the respondent unions have not been proved. On the other hand, it would appear that the respondent judge has acted with dispatch in having the case heard until it was temporarily taken out of his hands by the NATIONAL LABOR's motion for reconsideration of his order to dismiss, the resolution of which devolved upon the court in banc. The allegationthat since the filing of the petition ha had taken no action thereon is clearly unfounded. It may be added that, as stated in the memorandum filed by the respondent NATIONAL LABOR, the hearing of the STORE's petition for certification election has been

ordered suspended by the court in banc pending resolution of a complaint filed by said respondent charging the STORE with "having assisted and dominated in the formation and administration of the branch of the Inter-Island Dockmen and Labor Union among its workers in violation of Section 4(a) of Republic Act No. 875."

Clearly the STORE has no case for mandamus. Its petition in the Court is, therefore, dismissed, with double costs.

Pablo, Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, and Reyes, J.B.L., JJ., concur.

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