

**CALTEX FILIPINO MANAGERS AND SUPERVISORS ASSOCIATION,
PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, CALTEX
(PHILIPPINES) INC., W. E. MENEFEE AND B. F. EDWARDS,
RESPONDENTS.**

G.R. Nos. L-30632-33. September 28, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

The only question not devoid of significance raised in this motion for the reconsideration of our decision of April 11, 1972 is whether or not an unfair labor practice may be committed against managerial personnel who are members of petitioner Caltex Filipino Managers and Supervisors Association. There are other objections raised, but they cannot prevail against the conclusion reached by us after a most careful study, so evident in the exhaustive opinion penned by retired Justice Villamor with the concurrence of all the members of this Court. Nor is the contention in support of the ground mentioned at the outset sufficiently persuasive as to call for any alteration or modification thereof, much less a reversal. There is no justification then for granting the plea in this motion for reconsideration.

In support of its principal ground that managerial personnel could neither claim nor be the object of an unfair labor practice and thus respondent Caltex (Philippines) Inc. could not be held guilty thereof, the memorandum of arguments in support of respondent's motion for reconsideration states the following: "Respondent Company's position in this case was not whimsical. It was dictated by what it believed in good faith was the law. More concretely, respondent Company's posture was solely based on the order dated September 9, 1964 of respondent Court in Case No. 196-MC-Cebu entitled 'In re: Petition for Certification Election at the Caltex (Philippines), Inc., Cebu District, Caltex Supervisory and Foremen's Union, Petitioner,' * * *. Having been rendered only on September 9, 1964, said order was so fresh then as to have been indelibly impressed in the mind of respondent Company. In that case, respondent Court declared certain positions in respondent Company's Cebu District as management and excluded them from the bargaining unit of supervisors. Mr. Jose Mapa, for one, in 1958 held the positions of Assistant Terminal Superintendent and thereafter Acting Terminal Superintendent in Opon Terminal in 1958 * * *. A stipulation of the parties, * * * excluded the position of Terminal Superintendent in Cebu (a position he held in 1958) from the bargaining unit of supervisory personnel. In said order of September 9, 1964, the position next, lower to Terminal Superintendent, that is, Assistant Bulk Terminal Superintendent, was declared managerial by respondent Court. Mr. Jose Mapa has never been reduced below manager status since that time." [1] After which came this portion of such memorandum: "In refusing to extend recognition to petitioner because it included managerial personnel, respondent Company, backed by a precedent in a case which in it was a party, acted in good faith. Refusal to recognize a union conglomerate of supervisors and managerial personnel wherein respondent Company had earlier expressed no objection to the recognition of supervisors as such within the appropriate unit we submit is valid. There is consequently no basis to hold it guilty of unfair labor practice. This is in fact what respondent Court found, and which, it is respectfully submitted, should not be disturbed – "The

stand of the company was not a whimsical and flimsy one. It had valid legal basis. It honestly believed that managers, being part of management should not be included in a union of supervisors. This was the ruling of the Court in Case No. 196-MC-Cebu, which was upheld by the Court en banc and the Supreme Court in G. R. No. L-24212, prom. April 23, 1965, wherein this Court ruled that the positions of Depot Supervisors, Asst. Bulk Terminal Superintendent, Terminal Accountant and General Clerk were excluded from a union of supervisors on the ground that they are performing managerial functions."[2]

Respondent Caltex (Philippines) Inc. would thus impress on us that there is a sufficient legal basis for the proposition advanced by it. There is truth to the statement in the citation from respondent Court that it did rule in Case No. 196-MC-Cebu, promulgated on September 9, 1964, that a depot supervisor did perform managerial functions and should be excluded from the supervisory unit. It is quite misleading to say, however, that as a matter of law, such a doctrine was announced in L-24212, promulgated April 23, 1965. As a matter of fact, that portion of the opinion of respondent Court betrays on its face a certain degree of carelessness. It did not even mention the title of L-24212 which is Caltex (Philippines) Inc. vs. Caltex Supervisors and Foremen's Union. Nor was there a resolution issued by us therein on April 23, 1965. Our resolution was issued on March 23, 1965. It was worded thus: "After a consideration of the allegations of the petition filed in L-24212 (Caltex [Phil.] Inc. vs. Caltex Supervisors & Foremen's Union, et al.), for review of the order of the Court of Industrial Relations referred to therein, [the Court resolved] to dismiss the petition for lack of merit."[3] What is clear is that respondent Caltex (Philippines) Inc.'s petition was not given due course. That was all.

It is therefore extremely farfetched to assert that respondent Court was upheld by us. Such a curt resolution, as is apparent on its face, amounted to no more than that Caltex (Philippines) Inc. was unable to present a sufficiently meritorious petition. It could not have the effect of *res judicata*. Moreover, the party that could have raised such a question, the Caltex Supervisors and Foremen's Union, did not bother to do so. There was, of course, in addition, a rather lengthy excerpt from the resolution of the respondent Court of Industrial Relation, distinguished by orthodoxy but hardly relevant to the crucial issue and blithely unconcerned with the decisive factor, which is the relationship that should exist between the Filipino executives, members of petitioner Union, and the respondent Company which is either alien-owned or controlled.

It would be going too far to dismiss summarily the point raised by respondent Company, that of the alleged identity of interest between the managerial staff and the employing firm. That should ordinarily be the case, especially so where the dispute is between management and the rank and file. It does not necessarily follow though that what binds the managerial staff to the corporation forecloses the possibility of conflict between them. There could be a real difference between what the welfare of such group requires and the concessions the firm is willing to grant. Their needs might not be attended to then in the absence of any organization of their own. Nor is this to indulge in empty theorizing. The record of respondent Company, even the very case cited by it, is proof enough of their uneasy and troubled relationship. Certainly the impression is difficult to erase that an alien firm failed to manifest sympathy for the claims of its Filipino executives. To predicate under such circumstances that agreement inevitably marks their relationship, ignoring that discord would not be unusual, is to fly in the face of reality.

There is moreover, in the way this objection was framed; speaking solely of the commission of unfair labor practice on managerial personnel, a lack of appreciation as to what is truly impressed with legal relevance. The basic question is whether the managerial personnel can organize. What respondent Company failed to take into account is that the right to self-organization is not merely a statutory creation. It is fortified by our Constitution.[4] All are free to exercise such right unless their purpose is contrary to law. Certainly it would be to attach unorthodoxy to, not to say an emasculation of, the concept of law if managers as such were precluded from

organizing. Having done so and having been duly registered, as did occur in this case, their union is entitled to all the rights under Republic Act No. 875. Considering what is denominated an unfair labor practice under Section 4[5] of such Act and the facts set forth in our decision, there can be only one answer to the objection raised that no unfair labor practice could be committed by respondent Company insofar as managerial personnel is concerned. It is, as is quite obvious, in the negative.

As mentioned earlier in this resolution, the other grounds namely, the alleged misinterpretation of paragraphs six and ten of the return-to-work agreement, the failure to consider the strike of petitioner Union as illegal, the claim that the termination of the employment of Jose J. Mapa and Dominador Mangalino as decreed by respondent Court should be upheld, and the award of back wages as well as attorney's fees, had been touched upon and carefully considered in our decision of April 11, 1972. It suffices for us to state that we reaffirm what was set forth therein.

WHEREFORE, the motion for reconsideration of respondent Company of April 25, 1972 is denied.

Concepcion, C.J., Zaldivar, Castro, Teehankee, Makasiar, Antonio, and Esguerra, JJ., concur.

Makalintal, J., is on official leave.

Barredo, J., took no part.

[1] Memorandum of Arguments in Support of Motion for Reconsideration, p. 5.

[2] Ibid, p. 6.

[3] Resolution of March 23, 1965.

[4] According to Article III, Sec. 1, par. 6 of the Constitution: "The right to form associations or societies for purposes not contrary to law shall not be abridged.

[5] Section 4 of Republic Act No. 875 insofar as an employer is concerned reads as follows: "(1) To interfere with, restrain or coerce employees in the exercise of their rights guaranteed in section three; (2) To require as a condition of employment that a person or an employee shall not join a labor organization or shall withdraw from one to which he belongs; (3) To initiate, dominate, assist in or interfere with the formation or administration of any labor organization or to contribute financial or other support to it; (4) To discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization: Provided, That nothing in this Act or in any other Act or statute of the Republic of the Philippines shall preclude an employer from making an agreement with a labor organization to require as a condition of employment membership therein, if such labor organization is the representative of the employees as provided in Section twelve, but such agreement shall not cover members of any religious sects which prohibit affiliation of their members in any such labor organization; (5) To dismiss, discharge, or otherwise prejudice or discriminate against an employee for having filed charges or for having given or being about to give testimony under this Act; (6) To refuse to bargain collectively with the representatives of his employees subject to the provisions of sections thirteen and fourteen."

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