

MATEO CORONEL, SANTIAGO SALVADOR AND VICENTE BERTULANO, PETITIONERS VS. COURT OF INDUSTRIAL RELATIONS AND COLUMBIAN ROPE EMPLOYEES AND LABORERS ASSOCIATION, RESPONDENTS.

G.R. Nos. L-22359 & L-22524-5. August 30, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

To be resolved in the present proceedings on certiorari is the question of whether or not the judgment of the Court of Industrial Relations (CIR) en banc rendered in the above cases excludes petitioners from liability thereunder. Because, petitioners invoke the jurisdiction of this Court to nullify an order of execution CIR issued against them upon the judgment.

The case has its roots in facts now to be recited.

On September 20, 1955, Columbian Rope Employees and Laborers Association (hereinafter referred to merely as the Union). Jose Nera, and 11 others, lodged in CIR two cases consolidated into a single complaint charging unfair labor practice committed, amongst others, by Columbian Rope Company of the Philippines, Inc. (Columbian, for short), and herein petitioner Santiago Salvador. These cases were there docketed as 719-ULP and 771-ULP.[1] Allegedly, respondents therein individually and/or collectively interfered in the exercise of complainants' fundamental right to self-organization.

On February 29, 1956, while the two ULP cases were pending hearing on the merits, complainant union's president, Agripino Cariazo, was thrown out of service. On March 1, 1956, the union declared a strike. However, the mediation of the then Davao Provincial Governor Hon. Alejandro Almendras brought about a modus vivendi whereunder the union agreed to a return-to-work and Columbian to re-admit the striking workers. Accordingly, on March 9, 1956, the workers reported for work. All except 169 workers were reinstated. On March 11, 1956, nine of the reinstated workers were laid off.

This triggered a third unfair labor practice charge. Complainants were the union, together with Agripino Cariazo and 168 others. Respondents were Columbian, and its officials Merle Robie and Thomas W. Jurika, and herein petitioners Santiago Salvador, Vicente Bertulano and Mateo Coronel who were alleged to be foremen of Columbian. Complainants' gripe consisted of violation of the return-to-work agreement following the March 1, 1956 strike, in that they were denied reinstatement because they picketed. Acting upon this charge, CIR's prosecutor filed on December 26, 1956 the corresponding complaint docketed as Case 17-ULP-MIN, entitled "Columbian Rope Employees and Laborers Association, et al., complainants, vs. Columbian Rope Company of the Philippines, et al., respondents."

All the aforesaid cases (719-ULP, 771-ULP, and 17-ULP-MIN) were heard jointly. On September 2, 1960, CIR—thru trial judge (Presiding Judge) Jose S. Bautista—decided the cases, as set forth in an "Order", the

dispositive part of which reads—

"WHEREFORE, the Court hereby denies the claim of Agripino Cariazo and other thirteen (13) complainants named in paragraph 1, letters (a) and (b) of the company's answer in Case No. 17-ULP-MIN, for lack of merit; and orders respondents to cease and desist from further engaging in unfair labor practices, and to reinstate all the workers listed in the complaint, excluding the aforesaid fourteen (14) complainants, with backwages from March 9, 1956, up to their actual readmission. Respondents shall also reinstate Jose Nera and eleven (11) others named in Cases Nos. 719-ULP and 771-ULP, with backwages, from their dismissal until reinstated." [2]

Columbian and its officials went to CIR en bane on motion to reconsider the portion of the trial judge's decision adverse to them.

Likewise, but in a separate motion, petitioners Santiago Salvador, Vicente Bertulano and Mateo Coronel sought reconsideration. Their ground is that the finding that they have committed unfair labor acts is contrary to the facts and the law. [3]

In its resolution dated February 2, 1961, CIR en bane found that no employer-employee relationship existed between Columbian and the striking union members and that the latter were actually employees of independent contractors, herein petitioners Santiago Salvador, Vicente Bertulano and Mateo Coronel. It thus disposed of Columbian's aforesaid motion in this tenor: "the partial motion for reconsideration is given due course". CIR left untouched Judge Bautista's decision as it affects the other respondents (petitioners herein).

Petitioners did not appeal. As to them, CIR's judgment became final.

The union, however, elevated the case to this Court on appeal by way of certiorari (L-18142-3-4, entitled "Columbian Rope Employees and Laborers Association, petitioner, vs. Columbian Rope Company of the Philippines, et al., respondents"). The union's said petition was denied for lack of merit; its first and second motions for reconsideration were both rejected by this Court.

Back in CIR, the union asked for execution of the judgment— which has thus become final—against Santiago Salvador, Vicente Bertulano and Mateo Coronel, herein petitioners. In its order dated April 25, 1963, CIR granted the union's motion. Reconsideration having been thwarted by CIR en bane, Coronel, Salvador and Bertulano came up to this Court on certiorari— the cases now before us.

Petitioners' trenchant claim is that execution will not lie against them because (1) the judgment of the trial judge sought to be executed was set aside by CIR's resolution en bane; (2) said judgment and resolution have not found petitioners guilty of unfair labor practice; and (3) it is impermissible for the union to reverse its position by enforcing the judgment against petitioners (Coronel, Bertulano and Salvador) after it sought to hold Columbian liable thereunder in its abortive appeal to this Court in L-18142-3-4.

1. In taking up the problems thus thrust upon this Court, we part with the premise that as early as May 31, 1956, in Certification Election Cases Nos. 266-MC and 270-MC, CIR has ruled that petitioners Coronel, Salvador and Bertulano were "independent contractors and employers of their respective piece workers". CIR's resolution en bane issued in the present cases on February 2, 1961 categorized petitioners as such independent contractors who were the employers of the union's striking members. [4] These findings are not now debated. Nor can they be altered at this stage when finality has attached to the decision in the certification election cases and to that in the subsequent unfair labor practice cases.

Did CIR's en banc resolution of February 2, 1961 set aside the trial judge's decision dated September 2, 1960?

The answer is Yes, but only partially and solely in favor of Columbian. CIR's February 2, 1961 resolution en bane stated that "the partial motion for reconsideration is given due course." [5] The resolution, it is true, is wanting in

specificity. It is to be conceded that more felicitous terms could really have been employed. But this is of de minimis importance. For, the body of CIR's resolution en banc discussed almost exclusively Columbian's motion to reconsider. And having so discussed, CIR concluded that: "In the light of all the foregoing, we have finally come to the conclusion that, in fact, the CORELA [the union] complaining members ordered to be reinstated by the Company in the Order sought to be partially reconsidered have never been employees of the latter and that the Company, therefore, could not be under obligation to reinstate them".[6]

The natural and obvious import of the said resolution is that what was actually granted was the motion for partial reconsideration of Columbian.

Accurate reading of the aforesaid resolution will not permit indulgence in speculation that CIR's en banc resolution has erected a shield to insulate petitioners from the impact of the judgment of the trial judge—as it affects them. Indeed, no mention in that resolution was ever made of the merits of the motion jointly filed by Coronel, Salvador and Bertulano. Rather, we should say that their motion was denied sub-silentio.

We consequently conclude that the judgment of Judge Jose S. Bautista dated September 2, 1960 was set aside by CIR en banc only insofar as it ordered Columbian to reinstate the strikers and pay them back wages.

2. Of prime importance now is the question of liability of herein petitioners Coronel, Salvador and Bertulano. Respondent union's claim—on execution proceedings—against Coronel, Salvador and Bertulano is centered upon the trial court's judgment commanding respondents "to reinstate" all the workers therein mentioned, "with back wages" as therein specified.

The three petitioners herein are party respondents in CIR's Case No. 17-ULP. But, resisting execution, they now vehemently contend that the trial court made no finding that any of them "committed, participated in, or was privy to any unfair labor practice"[7] or that they were covered by, or participated in, the return-to-work agreement,[8] the alleged breach of which was complained of by the union in said Case No. 17-ULP. They charge that this is an error of constitutional dimensions. They cite Section 12, Article VIII of the Constitution, which commands that "[n]o decision shall be rendered by any court of record without expressing therein clearly and distinctly the facts and the law on which it is based." [9] They thus assert that their liability is not supported by the lower court's findings. But their reliance is misplaced.

Beyond dispute is that the trial judge's judgment of September 2, 1960 "orders respondents"—including Coronel, Salvador and Bertulano—"to cease and desist from further engaging in unfair labor practices, and to reinstate" all the workers set forth therein, "with back wages". This judgment, as aforesaid, was partially set aside by the CIR en banc by excluding Columbian from liability thereunder, for lack of employer-employee relationship. Unexculpated under the same judgment are Coronel, Salvador and Bertulano, the independent contractors, the employers of the union members. In short, the judgment subsists as far as Coronel, Salvador and Bertulano are concerned — and so far as it is applicable to them, a matter to be treated later on in this opinion. This judgment has become executory.

Aptly to be recalled at this point is the union's motion for execution of the said judgment. Which, of course, was challenged by petitioners. Upon the issue of non-liability then tendered by petitioners, CIR's trial judge reaffirmed on April 25, 1963 (approved by CIR en banc on October 16, 1963) that Columbian is exempt from any and all liability, and amplified on petitioners' obligation under the judgment, in the following language:

"As mentioned above, only the respondent Company's motion for partial reconsideration was given due course by the Court en banc, while that filed by counsel for the three respondents above-named was impliedly denied. [10] The Court en banc found that respondent company was not and has never been the employer of the complainants and on this premise absolved the respondent company from any liability to reinstate or pay

backwages to them. It is also clearly implied from the Resolution of the Court en banc that the three respondents involved are the real employers of the complainants respectively working under them. So that as it stands now, the order to reinstate complainants with backwages was modified to the extent of absolving only the respondent company but not the three respondents".[11]

Does the trial judge's decision of September 2, 1960 aforementioned suffer from lack of factual prop? To our mind, said judgment recited the factual basis.

This judgment (clamping liability upon petitioners) in Case No. 17-ULP—where the union complained of the refusal to readmit the strikers in violation of the return-to-work agreement (Exhibit 10-CRC)—made finding of facts, viz:

"In the readmission of the strikers, the procedure was this: Salvador, Bertulano and Coronel were near the gate of the company on March 9; and they called their men one by one. At the gate, Thomas Jurika, Davao Branch Manager, stood holding a piece of paper and pencil. Each man who entered was checked-off on his list. Some were allowed to enter and some were given a sign to get out (Testimony of C. Fiel, pp. 810-812, Sept. 4, 1957, tsn)".[12]

It bears repetition to emphasize that the three petitioners herein—as independent contractors—were the employers of the union members. Nonetheless, the record amply demonstrates the close tie-up between Columbian and the said petitioners in the matter of employment and dismissal of the laborers. CIR's en banc resolution of February 2, 1961 describes their (petitioners') connection with Columbian, thus—"About a week prior to the strike of March 1, 1956, there were some 157 workers working at the Company's Sta. Ana bodega: 34 of them were working under Santiago Salvador in his 'outside gang'; 23 of them were working under Mateo Coronel in his 'press gang'; and 100 of them were working under Vicente Bertulano in his 'tipcutters gang'". [13]

It is to be noted, too, that the question of whether petitioners were independent contractors with respect to the union members cropped up when the union president demanded from Columbian the execution of a collective bargaining agreement. Offshoots of this were Certification Election Cases 266-MC and 270-MC heretofore adverted to wherein CIR made the pronouncement that petitioners were independent contractors and employers of their respective workers. But can it be successfully denied that petitioners also worked for Columbian as heads of labor gangs? The term "independent contractor" cannot thus be read as to thinly disguise the fact that these contractors also were in the employ of Columbian.

It is in this backdrop that we declare that the refusal to readmit the strikers—the unfair labor practice complained of—was not monopolized by Thomas Jurika, Columbian's branch manager in Davao. It was also participated in by petitioners Coronel, Salvador and Bertulano. The fact that it was Jurika who singled out the men to be refused readmission, would not exculpate Coronel, Salvador and Bertulano. For, the latter three were present when Jurika "gave a sign" to each complaining union member "to get out". And, the least that can be said is that—as the laborers' employers—they joined and acquiesced in and approved of Jurika's act constituting unfair labor practice.

3. Petitioners would want us to declare the union in estoppel in that after CIR en banc issued its resolution dated February 2, 1961, the union appealed the same to this Court with the proposition that there is an employer-employee relationship between the strikers and Columbian.

There can be no quarrel as to the fact that the union's appeal stressed that in the present unfair labor practice cases Merle Robie (general manager of Columbian) "admitted during the trial that the so-called 'independent contractors' [were] referred to as capataces in the payroll [of Columbian] and being given their pay as such".[14] But the union's appeal was dismissed. And the judgment below became final.

There is no estoppel. Really, the union's claim on appeal clashes with the lower court's judgment. But the

appellate court—this Court—in effect declared that the union's position is untenable, unsound. The union in enforcing that final judgment, much as it argued to the contrary, simply bowed to the inevitable, to judicial authority. It did not adopt inconsistent positions. Indeed, it had no choice. It cannot reject the burdensome consequences of the decision. That decision is binding regardless of the union's opinion.

Estoppel is odious, is not favored in law. Because it excludes the truth.[15] With greater reason must we say that estoppel finds no room for application here because the truth which may not be scuttled is a final judicial pronouncement by a court of competent jurisdiction. That judgment imports absolute verity. Not even the union may impeach it.

4. We now grapple with the problem of determining the extent of petitioners' liability under the final judgment.

To be recalled is that said judgment requires petitioners herein "to reinstate" and "to pay backwages". We are primarily concerned with that portion relative to reinstatement. Reinstatement refers to a restoration to a state from which one has been removed or separated; it is the return to the position from which he was removed. [16]

We take stock of the facts of the case and pronouncements of the court below. And we find that reinstatement has become impossible to accomplish.

It should be remembered that the employees involved here worked on jobs given and made available to them by Columbian.

To require Coronel, Salvador and Bertulano to reinstate them would entail a further order to require Columbian to make their former jobs available to, and to accept, these workers. This cannot be done inasmuch as CIR in its en banc resolution of February 2, 1961—now final—has already released Columbian from such obligation. That resolution ipso facto ruled out reinstatement. The law does not exact compliance with the impossible.

How about the back wages? Our considered view is that petitioners—the employers—must pay them. For said petitioners are guilty of unfair labor practice; they were responsible for their laborers being thrown out of their jobs. If we are to enhance the vitality of and give meaning to the constitutional precept that "[t]he promotion of social justice to insure the well-being and economic security of all the people should be the concern of the State", then duty exacts that we give the nod to the grant of relief to these laborers for the wrong done to them. They are entitled to backpay to commence from the time spelled out in the trial judge's decision of September 2, 1960 up to the date this judgment becomes final. Justice and equity command that this last date be fixed as the terminus—in lieu of the date of reinstatement.

For the reasons given, we vote—

(1) To GRANT the petition for certiorari with respect to the reinstatement of the members of the Columbian Rope Employees and Laborers Association referred to in the decision of CIR's trial judge of September 2, 1960, and, in consequence, to declare null and void CIR's order of execution of April 25, 1963, insofar as it directs reinstatement of said laborers;

(2) To DENY said petition with respect to the payment of back wages; and

(3) To DIRECT the issuance by the court below of a writ of execution for the implementation of the judgment as to back wages to start as specified in the decision of CIR's trial judge dated September 2, 1960 and up to the date the judgment of this Court herein becomes final.

No costs.

SO ORDERED

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Angeles and Fernando, JJ., concur.

Petition granted with respect to reinstatement of members of respondent Association and denied with respect to the payment of backwages.

[1] Rollo , pp. 129-134.

[2] Rollo , pp. 38-39.

[3] Rollo , p. 41.

[4] Rollo , pp. 44, 48, 51, 55, 59-60.

[5] Rollo ,p. 60.

[6] Id., p. 56.

[7] Petitioners' brief, p.

[8] d., p. 8.

[9] Petitioners' reply brief, p. 6.

[10] Italics supplied.

[11] 'The resolution referred to in the quoted portion is CIR's resolution en bane dated February 2, 1961. See: Rollo, pp. 76-77.

[12] Rollo , p. 35.

[13] Rollo , p. 44; italics supplied.

[14] Rollo , p. 66.

[15] 31 C.J.S., p.291.

[16] San Miguel Brewery vs. Santos, L-12682, August 31, 1961, 2 Supreme Court Reports Anno. 1081, 1089.

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