

## VISAYAN TRANSPORTATION CO., INC., PETITIONERS, VS. PABLO JAVA, RESPONDENT.

*G.R. No. L-6111. October 22, 1953*

Ponente: BAUTISTA ANGELO, J.

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### **BAUTISTA ANGELO, J.:**

This is an appeal by certiorari from an order of the Court of Industrial relations dated January 14, 1952 enjoining the Visayan Transportation Co., Inc. and its agent, the Aboitiz & Co., Inc., from wresting from Pablo Java and his men the work of loading and unloading the cargo on the boats of respondent Southern Lines, Inc., particularly the boats Governor Smith, Governor Wright and Governor Gilbert, while docketed at the wharf of Cebu City during the pendency of this case.

On October 11, 1950, the Katubsan sa Mamumuo, a labor organization, and Pablo Java filed with the court of Industrial Relations a joint petition against the Southern Lines, Inc. and the Olizen Shipping in which, among other things, the former prayed that a writ of preliminary injunction be issued restraining the latter from wresting from them the right to load and unload the cargo on the boat Governor Smith and such other boats of the Southern Lines, Inc. that may dock at the port of the City of Cebu. [Case No. 515-V(3).] On November 18, 1950, the court issued the writ prayed for in the petition. On September 3, 1951, by virtue of a petition filed by Jose Muaña, who claimed to be the president of Katubsan sa Mamumuo, the latter was allowed to withdraw from the case thereby leaving Pablo Java as the only petitioner.

On November 22, 1951, Pablo Java sent a telegram requesting the court to issue an order directing the Visayan Transportation Co., Inc. and its agent, the Oboitiz & Co., Inc., to respect and comply with the order of the court of November 18, 1950 in order to avoid a possible confusion between different labor groups. The court, however, denied the request on the ground that the above entities were not parties to the case.

On November 9, 1951, without informing the court, the Southern Lines sold the boat Governor Smith to the Philippine Steam Navigation Co., Inc., and on December 28, 1951, the latter in turn sold the same boat to the Visayan Transportation Co., Inc. Apparently, these transactions were brought to the attention of the court, and because the new owner of the boat Governor Smith attempted to wrest from Pablo Java the work of loading and unloading the cargo on said boat through its own group of laborers, Pablo Java prayed that said new owner be restrained from doing so pending determination of the issue involved in the main case against the Southern Lines, Inc. This was done on January 14, 1952, the court enjoining the Visayan Transportation Co., Inc. and its agent, the Aboitiz & Co., Inc., from molesting Pablo Java and his men in the sense above indicated pending the termination of the main case.

On January 21, 1952, the Visayan Transportation Co., Inc. filed a motion for reconsideration wherein it prayed that it set aside the writ of injunction issued against it upon the plea that it had acquired for a valuable consideration the boat Governor Smith from the Philippine Steam Navigation Co., Inc., which in turn had acquired it from the Southern Lines, Inc., aside from the fact that neither of the two entities was, nor had been

made, a party to the case. But the court, sitting in banc, denied the motion for reconsideration in a split decision wherein three judges voted in favor and two against. The case is now before this court by virtue of the appeal interposed by the Visayan Transportation Co., Inc.

The only issue to be determined is whether the Court of Industrial Relations erred in enjoining the Visayan Transportation Co., Inc. from wresting from Pablo Java and his men the work of loading and unloading the cargo on boat Governor Smith notwithstanding the fact that the ownership of said boat had been transferred to said company by virtue of a valid deed of sale. Apparently, appellant has now waived the other issue raised by it in the lower court to the effect that the disputed order has no binding effect against it because it is not a proper party to the case.

It should be recalled that when the order of January 14, 1952 was issued by the lower court enjoining the Visayan Transportation Co., Inc. and its agent, the Aboitiz & Co., Inc., from wresting from Pablo Java and his men the work of loading and unloading the cargo on boat Governor Smith when it docks at the port of the City of Cebu, said Visayan Transportation Co., Inc. filed a motion for reconsideration setting up the defense that the order was illegal because it has already acquired the ownership of said boat. In said motion, the Visayan Transportation Co., Inc. made patent the following facts: "To begin with, the Southern Lines, Inc. was the owner or operator of several vessels, among which were the Governor Wright, Governor Smith and the Governor Gilbert. Sometime in the year 1951, the Philippine Steam Navigation Co., Inc. purchased and acquired from the Southern Lines, Inc. the said vessels. On December 28, 1951, for a valuable consideration the Philippine Steam Navigation Co., Inc. transferred all its rights and interests in the aforesaid Governor Smith (ex-FS-314) to the movant Visayan Transportation Co., Inc. It will be observed, therefore, that the Visayan Transportation Co., Inc. acquired the M/V Governor Smith not from the Southern Lines, Inc., nor from Aboitiz & Co., Inc. but from the Philippine Steam Navigation Co., Inc." These facts were not denied by Pablo Java or his counsel, nor are they now disputed. There is not even an insinuation that the different transfers made of boat Governor Smith to the entities above mentioned are fraudulent, fictitious, or were made with the only purpose of circumventing any order or judgment that may be rendered in the main case. Yet, the Court of Industrial Relations decided to issue the injunction now complained of on the sole premise that, as those transfers were made after the main case had started and after respondent therein had been enjoined from interfering with the stevedoring work granted by the Southern Lines, Inc. to Pablo Java and his men, said transfers should be considered as an attempt to render "nugatory whatever this court would render in the instant case and/or to evade the legal obligations incident thereto." We hold that this conclusion finds no support in the evidence. There is nothing in the record to show that such was the purpose of the transfers made, nor can it be implied from the mere circumstance that they were made during the pendency of the main case, it involving a question of fact which should be established by sufficient evidence.

Having arrived at the conclusion that the Visayan Transportation, Co., Inc. is actually the owner of boat Governor Smith, the next question to determine is: Is that company in duty bound to respect the labor contract that had been entered into between Pablo Java on one hand and the Southern Lines, Inc. on the other with regard to the loading and unloading of cargo on board said boat? The answer to this question should be qualified. If in the deed of transfer of said boat executed by the latter in favor of the Southern Lines, Inc. in favor of the Philippine Steam Navigation Co., Inc., as well as in that executed by the latter in favor of the Visayan Transportation Co., Inc. the right of Pablo Java to the stevedoring work was included as one of the conditions, then this right should be respected and the Visayan Transportation Co., Inc. can be enjoined from assigning it to any other party. Otherwise, no such legal obligation can be presumed and the recourse of Pablo Java is to go against the original owner with whom he had contracted relative to the stevedoring work. This is the only legal conclusion that can be drawn from the situation now obtaining, and this emanates from the theory that a labor contract merely creates an action in personam and does not create any real right which should be respected by third parties. This conclusion

draws its force from the right of an employer to select his employees and to decide when to engage them guaranteed by our Constitution which can only be restricted by law through the proper exercise of police power. (31 Am. Jur., section 9, p. 387.) Here there is no showing, nor the slightest intimation, that the right given to Pablo Java with regard to the stevedoring work has been respected in the different deeds of sale covering the boat in question. This being the case, Pablo Java has no recourse against the new owner. As the case now stands his only remedy is to take up the matter with his original employer, the Southern Lines, Inc.

Wherefore, the order appealed from is hereby set aside, without pronouncement as to costs.

Paras, C.J., Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo and Labrador, JJ., concur.

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