MANILA ORIENTAL SAWMILL COMPANY, PETITIONER, VS. NATIONAL LABOR UNION AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G. R. No. L-6943. November 29, 1954

Ponente: PADILLA, J.

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PADILLA, J.:

In Manila Oriental Sawmill Company vs. National Labor Union, et al., G.R. No. L-4330, 24 May 1952, we declared illegal the strike staged on 28 August 1950 by the workers and members of the National Labor Union, 36 of whom were members of the United Employees Welfare Association which had entered into an agreement with the Manila Oriental Sawmill Company on working conditions to last one year from 4 May 1950, the date of its execution. On 30 July 1952, the Manila Oriental Sawmill Company filed a petition for authority to dismiss and replace the workers who had staged the strike on 28 August 1950 declared illegal by this Court. On 12 January 1953, the presiding Judge of the Court of Industrial Relations granted the petition but upon motion for reconsideration filed on 21 January 1953, the order of 12 January was reversed and set aside by a resolution dated 3 July 1953, the majority of three Judges being of the opinion that the employer could no longer dismiss the strikers in spite of a judicial declaration that the strike was illegal, because "during the time that the question of legality of the strike was being heard in this Court, or to be exact, on September 14, 1950 the strikers returned to work by order of the Court which was made upon an urgent motion by the company. We can thus conclude that although the strikers returned to work upon order of the Court it was at the instance of the company which made no reservation as to the dismissal of the strikers if the strike be declared illegal." (Annex I.) Two Judges dissented and were of the opinion that the employer could dismiss the strikers. This resolution of 3 July 1953 is now before this Court for review by a petition for a writ of certiorari under Rule 44.

The petition must be granted, because the resolution under review overlooks the reservation made by the Manila Oriental Sawmill Company in paragraph 3 of its "urgent motion for order requiring strikers to return to work" dated 12 September 1950, which states: "* * * without prejudice to the final adjudication of the case, particularly, to the principal petition praying of this Honorable Court that it declare the illegality of the strike called;" (Annex D), and the petition dated 31 August 1950, wherein it is prayed—

> (a) Que se declare que la huelga ejecutada por los obreros de la peticionaria con fecha 28 de agosto de 1950 es illegal, por cuanto que no se dio cuenta ni aviso a la gerencia de dicha huelga;
>
> (b) Que se expulse a todos los huelguistas;
>
> (c) Que se permita a la gerencia a contratar nuevos obreros, y
>
> (d) La peticionaria pide tambien cualquier otro remedio que en derecho y justicia procedan. (Annex C.)

So, the urgent petition for the return of the strikers to work, contrary to the ground upon which resolution under review is based, was with the reservation that if the strike be declared illegal the petitioner could dismiss the

strikers in accordance with the basic petition of 31 August 1950. If the right to dismiss the strikers should the strike be held illegal was not reversed, it would have been pointless for the petitioner to appeal from the order of 8 September 1950 which declared the strike legal and the resolution of 14 November 1950 which denied a motion for reconsideration of the previous order in G.R. No. L-4330 mentioned at the beginning of this opinion. Therefore, the resolution of 3 July 1953 under review cannot be upheld.

The resolution dated 3 July 1953 is reversed and set aside and the petitioner may dismiss the workers who staged the strike on 28 August 1950 which was declared illegal by this Court, with costs against the National Labor Union.

Paras, C.J., Pablo Bengzon, Reyes, A., Jugo, Bautista Angelo, Labrador, Concepcion and Reyes, J.B.L., JJ. concur

Mr. Justice Montemayor took no part

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