

NATION MULTI SERVICE LABOR UNION, PAULINA H. DE LOS REYES, EULALIA LISING, CRISOSTOMO D. SASIS, ALFREDO BAES, SEGUNDO DOMINGUEZ, ISMAEL ROYOL, JR., JESUS RAMOS, VIRGILIO LAUREAN...*G.R. No. L-39741. May 30, 1975*

Ponente: FERNANDO, J.

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The assumption of jurisdiction by the then respondent Judge of the Court of First Instance of Manila, now Associate Justice of the Court of Appeals Mariano V. Agcaoili[1] is assailed by petitioner Nation Multi Service Labor Union and the individual employees concerned[2] in this certiorari and prohibition proceeding, primarily on the ground that in doing so, respondent Judge acted contrary to the basic purpose of Presidential Decree No. 21 creating the now defunct National Labor Relations Commission. Its objective of assuring the effective and speedy determination of labor controversies was, so it is contended, set at naught. Petitioners find no justification in the long travail undergone by them to vindicate their rights disregarded by private respondents, needlessly prolonged. Stress is laid on the fact that the matter in controversy had been heard and passed upon first by a compulsory arbitrator, then the National Labor Relations Commission, and lastly by the Secretary of Labor. With the then respondent Judge entertaining a suit for prohibition[3] filed by private respondents, there resulted a frustration of the implementation of an order that had reached the stage of finality. For it is only the President who under such decree can overrule him.[4] That step private respondents did not take. Clearly the fruits of victory were in effect denied petitioners. Even on the assumption then that not even the presence of a legal question, one of constitutional dimension in the opinion of the then respondent Judge, could be relied upon for the exercise of the conceded judicial power to inquire into a grave abuse of discretion, it does not by any means follow that this present petition is lacking in merit. For a careful study of what had transpired would indicate that the alleged lack of procedural due process, merely because at the stage of appeal to the National Labor Relations Commission private respondents were not notified, would suffice to justify judicial intervention. As admitted by them, they were heard by the compulsory arbitrator and by the Secretary of Labor. It is difficult to resist the conclusion that while the then respondent Judge could not be said to be devoid of competence, there is nothing in the prohibition suit filed by private respondents to warrant any further delay in the enforcement of the decision of the Secretary of Labor in favor of petitioners. They are thus entitled to the remedies prayed for.

There was no denial of the factual allegations in the petition in the comment of private respondents considered as their answer. The present controversy originated from three unfair labor practice cases filed with the National Labor Relations Commission created under Presidential Decree No. 21.[5] A certain Francisco Jose was designated compulsory arbitrator.[6] Then hearings were held with private respondents presenting their respective witnesses, two of them being Eustacio Maloles and George Crame. Documentary evidence was likewise introduced. After which, on March 25, 1974, the compulsory arbitrator handed down his decision declaring respondents guilty of unfair labor practice acts, violative of Presidential Decree No. 21.[7] There was an appeal by

private respondents to the National Labor Relations Commission.[8] It was fruitless. After a study of the evidence, the Commission on July 19, 1974, modified the appealed decision of the compulsory arbitrator and held that private respondents are the employers of the individual petitioners.[9] Not satisfied, private respondents elevated the matter to the Secretary of Labor.[10] Petitioners interposed an objection to such appeal as it was not under oath and was moreover filed after the reglementary period.[11] Nonetheless, the Secretary considered such appeal on its merits, reviewed the evidence on record submitted by the parties during the compulsory arbitration and promulgated a resolution dated October 23, 1974 affirming in toto the decision of the NLRC en banc specifically declaring that private respondents are the employers of herein petitioners[12] Notwithstanding the finality of the Secretary of Labor's decisions, which are appealable only to the President, under Presidential Decree No. 21, private respondents on October 26, 1974, instituted with the Court of First Instance of Manila presided over by the respondent Judge, a petition for certiorari with prayer for preliminary injunction to nullify the decision of the Secretary of Labor.[13] Then, without notice and hearing, it issued the temporary restraining order dated November 8, 1974.[14]

Petitioners on the above facts, to repeat, must prevail. Even if it be conceded that the Court of First Instance is vested with jurisdiction, there was a grave abuse of discretion. Certiorari and prohibition lie.

1. Petitioners have in their favor an order from the Secretary of Labor Blas F. Ople, dated October 23, 1974. It reads thus: "Respondents, through counsel, interposed this present appeal from the Decision of the National Labor Relations Commission dated 19 July 1974, ordering respondent Ambassador Hotel, Inc. to reinstate the complainants with backwages. After a review of the records we find no sufficient reason or justification to alter or modify the Decision of the Commission appealed from, and the same is hereby [affirmed]. It may, in addition, be observed that the records clearly reflect the employer-employee relationship between the individual complainants and respondent Ambassador Hotel, Inc., gleaned from the different certifications of employment and other pertinent documents issued by Ambassador's president manager, Santiago Soliven, and its executive housekeeper, Mrs. Violeta P. Coronel. [In the light of the foregoing circumstances,] and considering the dismissal of complainants from their work by reason of their union affiliations and activities, respondent Ambassador Hotel, Inc. is hereby ordered to reinstate the complainants to their former positions with backwages. Respondent's appeal is dismissed for lack of merit and the Commission decision appealed from affirmed." [15] Under Presidential Decree No. 21, it has attained the status of finality. The appropriate step to take if private respondents were dissatisfied was to appeal to the President. So it was provided in such decree. They did not do so. It would have been executed then were it not for the action instituted in the sala of respondent Judge, who is on record as entertaining such suit only because of the vehemence with which the private respondents raised the procedural due process objection. A more careful scrutiny, however, would have yielded a different conclusion. The factual basis for a binding determination was laid before the compulsory arbitrator. He sustained petitioners, except that he did not agree that there was an employer-employee relationship between individual petitioners and private respondents. There was an appeal to the former National Labor Relations Commission. He was reversed, the finding being to the effect that there was employer-employee relationship. Then the matter was elevated to the Secretary of Labor, who, as shown above, ruled squarely and categorically in favor of petitioners.

It is true that in the appeal to the National Labor Relations Commission, there was an oversight. Private respondents were not notified. That is not to be visited with fatal consequences for petitioners. At that stage, no additional factual evidence could have been introduced. The compulsory arbitrator was reversed on a question of law by the Commission. It was the ruling that he was mistaken in his appraisal of the proof offered. There was an employer-employee relationship contrary to what he did find. Any any rate, private respondents still had a remedy. The Secretary of Labor was there to protect their interest assuming they had a valid grievance. An appeal was taken to him as provided in the decree. The Secretary of Labor categorically observed "that the records

clearly reflect the employer-employee relationship between the individual complainants and respondent Ambassador Hotel, Inc., gleaned from the different certifications of employment and other pertinent documents issued by Ambassador's president manager, Santiago Soliven, and its executive housekeeper, Mrs. Violeta P. Coronel." [16] How can it complain then about the failure to comply with the procedural due process requirement? Only recently, in *Maglasang vs. Ople*, [17] it was held: "It is thus apparent that even granting the absence of any hearing at the stage of mediation and factfinding, petitioner was afforded the occasion to explain matters fully and present its side of the controversy twice, the first time in his appeal with respondent Commission and thereafter in the review conducted by respondent Secretary of Labor. It would follow that the objection premised on lack of respect for the due process guarantee lacks support in the record." [18] There is no warrant for the view, therefore, that under the above circumstances, with private respondents having a full and unimpeded opportunity to cure any due process deficiency, its reliance on such objection is vain and futile. So the authoritative precedents command. They speak categorically to that effect. Respondent Judge unfortunately did not heed the teaching of applicable doctrines. He assumed jurisdiction of the prohibition suit instituted by private respondents, and he issued a restraining order. By keeping the case in his docket, when the outcome is so easily predictable if deference be paid to what is ordained by applicable cases, petitioners are, without legal justification, made to suffer. The order in their favor that ought to have been executed as far back as October 23, 1974 is still being litigated. That is not, as the Constitution requires, to protect labor. [19] Nor is that, as the Constitution mandates, to abide by the social justice principle. [20] They are thus entitled to the remedies of certiorari and prohibition as they have clearly made out a grave abuse-of discretion. [21]

2. There is one other aspect of this controversy that apparently failed to elicit the correct appraisal by respondent Judge. There was an appeal to the President. So it is explicitly provided for by the Decree. That was a remedy both adequate and appropriate. It was in line with the executive determination, after the proclamation of martial law, to leave the solution of labor disputes as much as possible to administrative agencies and correspondingly to limit judicial participation. That was in line with the trend both here and abroad to expedite the disposition of such cases. There ought to have been obedience to what was ordained in the Decree. There should not have been any toleration of any tactic or stratagem the effect of which would be to countenance evasion. The principle applies whether the scheme resorted to was direct or indirect. A greater sense of alertness was thus required of any court given the circumstances of this case. Regretfully it could not be said that here such a standard was met. It bears repeating that with respondent Judge entertaining the petition for prohibition what the Decree sought to avoid came to pass. That is to be regretted for a number of reasons. A Presidential Decree deemed ratified under the present Constitution was certainly deserving of much more fealty. [22] Then, too, deference to the imperative requirement of exhaustion of administrative remedies would readily indicate that there was no cause of action. [23] This consideration was overlooked by respondent Judge. Lastly, from the procedural standpoint, prohibition is available even if there be grave abuse of discretion only if there is no remedy by appeal. [24] Such is not the case here. What other conclusion is there except that the suit for prohibition filed by private respondents with respondent Judge was bereft of support in law?

3. It is to be made clear that this decision deals specifically with a proceeding before the defunct National Labor Relations Commission. Nothing in the opinion should be construed as having reference to the procedure to be followed and the role of the courts where judicial intervention is sought in controversies passed upon by the present National Labor Relations Commission created under the new Labor Code. [25]

WHEREFORE, the writ of certiorari is granted, and the restraining order of the then respondent Judge dated November 8, 1974, as well as his order of November 18, 1974, are nullified, set aside and considered to be bereft of any legal force or effect. The writ of prohibition is likewise granted, and the Judge designated to take the place of the respondent Judge who had since then been appointed to the Court of Appeals is restrained from taking any

further action on the petition for prohibition filed by private respondents, Civil Case No. 95831 of the Court of First Instance of Manila, Sixth Judicial District, Branch XXIX, except to dismiss it in accordance with this decision. Costs against private respondents.

Barredo, Antonio, Aquino, and Concepcion Jr., JJ., concur.

[1] The private respondents are Ambassador Hotel, Inc. and Simeon Nicolas Chan.

[2] The individual petitioners are Paulina H. de los Reyes, Eulalia Lising, Crisostomo D. Sasis, Alfredo Baes, Segundo Dominguez, Ismael Royol, Jr., Jesus Ramos, Virgilio Laureano, Hernande de Guzman, Magarlo Amisola, Alfredo Daanay, Johnny Bibit, Edgardo de Guzman, Mariano Uchi, Domingo Aquino, Jr., Mario Concepcion, Gomer Litong, Felix Dolores, Antonio Deyta, Rafael Acena, Ricardo Fetizanan, and Jose de Jesus.

[3] Ambassador Hotel, Inc. and Simeon Nicolas Chan vs. Hon. Blas F. Ople, Secretary of Labor and Nation Multi Service Labor Union-NATU, Civil Case No. 95831, Court of First Instance of Manila.

[4] The first paragraph of Section 5 of Presidential Decree No. 21 reads as follows: "The decision of the Commission shall be immediately executory unless appealed to the Secretary of Labor who shall act on all cases within five (5) days from filing. The latter's decision is appealable to the President."

[5] Petition, par. V.

[6] Ibid, par. VI.

[7] Ibid, par. VII.

[8] Ibid, par. VIII.

[9] Ibid, par. IX.

[10] Ibid, par. X.

[11] Ibid, pars. XI and XII.

[12] Ibid, par. XII.

[13] Ibid, par. XVII.

[14] Ibid, par. XVIII.

[15] Resolution dated October 23, 1974.

[16] Ibid.

[17] L-38813, April 29, 1975.

[18] Ibid. The following cases were cited: Demaronsing vs. Tandayag, L-27057, Aug. 21, 1974, 48 SCRA 484; De Borja vs. Flores, 62 Phil. 106 (1935); De Borja vs. Tan, 93 Phil. 167 (1953); Flash Taxicab Co. vs. Cruz, L-15464, March 30, 1963, 7 SCRA 518; Caltex (Phil.) Inc. vs. Castillo, L-24657, Nov. 27, 1967, 21 SCRA 1071 and Batangas Laguna Tayabas Bus Co. vs. Cadiao, L-28725, March 12, 1968, 22 SCRA 987.

[19] According to Article II, Section 9 of the Constitution: "The State shall afford protection to labor, promote full employment, ensure equal work opportunities regardless of sex, race, or creed, and regulate the relations-between workers and employers. The State shall assure the rights of workers to self-organization, collective bargaining, security of tenure, and just and humane conditions of work. The State may provide for compulsory arbitration."

[20] According to Article II, Section 6 of the Constitution: "The State shall promote social justice to ensure the dignity, welfare, and security of all the people. Towards this end, the State shall regulate the acquisition, ownership, use, enjoyment, and disposition of private property, and equitably diffuse property ownership and profits."

[21] Cf. *Cosmos Foundry Shop Workers Union vs. Lo Bu*, L-40136. March 25, 1975.

[22] According to Art. XVII, Sec. 3, par. 2: "All proclamations, orders, decrees, instructions, and acts promulgated, issued, or done by the incumbent President shall be part of the law of the land, and shall remain valid, legal, binding, and effective even after lifting of martial law or the ratification of this Constitution, unless modified, revoked, or superseded by subsequent proclamations, orders, decrees, instructions, or other acts of the incumbent President, or unless expressly and explicitly modified or repealed by the regular National Assembly."

[23] Cf. *Secretary of Agriculture vs. De los Angeles*, L-30215, Feb. 29, 1972, 43 SCRA 494 tracing the growth of the doctrine of exhaustion of administrative remedies from *Ang Tuan Kai vs. Import Control Commission*, 91 Phil. 143 (1952) and *Coloso vs. Board of Accountancy*, 92 Phil. 938 (1952) to *Allied Brokerage Corp. vs. Commissioner of Customs*, L-27641, Aug. 31, 1971, 40 SCRA 555. Thirty-five other decisions were cited. Since then, such a norm has been applied in the following cases: *Commissioner of Immigration vs. Vamenta Jr.*, L-34030, May 31, 1972, 45 SCRA 342; *Barte vs. Dichoso*, L-28715, Sept. 28, 1972, 47 SCRA 77; *Sanoy vs. Tantuico Jr.*, L-31945, April 30, 1973, 50 SCRA 455; *Quintos Jr. vs. National Stud Farm*, L-37052, Nov. 29, 1973, 54 SCRA 210; *Imbong vs. Oil Industry Commission*, L-34725-30, Jan. 17, 1974, 55 SCRA 95.

[24] According to Rule 65, Section 1 of the Rules of Court: "When any tribunal, board or officer exercising judicial functions, has acted without or in excess of its or his jurisdiction, or with grave abuse of discretion and there is no appeal, nor any plain, speedy, and adequate remedy in the ordinary course of law, a person aggrieved thereby may file a verified petition in the proper court alleging the facts with certainty and praying that judgment be rendered annulling or modifying the proceedings, as the law requires, of such tribunal, board or officer. The petition shall be accompanied by a certified true copy of the judgment or order subject thereof, together with copies of all pleadings and documents relevant and pertinent thereto."

[25] Cf. Article 212 of Presidential Decree No. 442 as amended (1974).

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