

ENJAY, INC. (HOTEL INTERCONTINENTAL MANILA) AND GRAHAM K.L. JEFFREY, PETITIONERS VS. COURT OF INDUSTRIAL RELATIONS AND SAMAHAN NG MGA MANGGAGAWA SA HOTEL INTERCONTINENTAL MANILA...

G.R. Nos. L-39032 and L-39134. December 18, 1974

Ponente: AQUINO, J.

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AQUINO, J.:

On December 1, 1973 the Samahan ng Mga Manggagawa sa Hotel Inter-Continental Manila (the Union for short) filed against the Hotel Inter-Continental Manila (hereinafter called the Hotel) in the Court of Industrial Relations (CIR) claims for overtime pay, wage differentials and service charges (Case No. 3448-V).

On December 21, 1973 the Union filed with the CIR a charge of unfair labor practice against the Hotel for having allegedly deprived its rank-and-file employees of their 1973 Christmas bonus because of their union activities (Charge No. 5657).

The Hotel filed motions to dismiss the claims and the charge on the grounds that the Union had no personality to represent its members in matters not affecting its property nor involving collective bargaining (Sec. 24, Republic Act No. 875) and that the CIR had no jurisdiction because under section 2(1) of Presidential Decree No. 21 dated October 24, 1972 original and exclusive jurisdiction was conferred upon the National Labor Relations Commission over "all matters involving employee-employer relations including all disputes and grievances which may otherwise lead to strikes and lockouts under Republic Act No. 875" (68 O.G. 8294-F).

The Union opposed the motion to dismiss in Case No. 3448-V. Judges Alberto S. Veloso and Ansberto P. Paredes, in their respective orders dated February 20 and April 19, 1974, denied the motions to dismiss.

Judges Pedro F. Perez and Veloso in their respective resolutions dated July 11 and 29, 1974 dismissed the Hotel's motions for reconsideration. They ruled that the orders of denial were not appealable to the CIR en banc.

The instant petition for review was filed by the Hotel on August 21, 1974 in order to set aside the said orders and resolutions. It is really a special civil action of certiorari.

Aside from invoking Presidential Decree No. 21, the Hotel has relied upon Letter of Instructions No. 191 dated June 3, 1974 which ordered the CIR to "transfer all pending cases filed after October 14, 1972 to the Bureau of Labor Relations for appropriate action" (70 O.G. 4823--4).

The Union admits in its memorandum of November 11, 1974 that cases involving employer-employee relationship should have been brought before the National Labor Relations Commission established by Presidential Decree No. 21. It observes that upon the effectivity of the Labor Code on November 1, 1974 (70 O.G. 4624-A, 4824 and 5021) the jurisdictional issue had become academic because that Code abolished the CIR and the old National Labor Relations Commission (Art. 337 of Presidential Decree No. 442).

However, the Union invokes article 338 of the Labor Code which provides that cases pending in the CIR should be transferred to the new National Labor Relations Commission created under that Code. Therefore, it prays that CIR Case No. 3448-V and Charge No. 5657 be referred for proper disposition to the new National Labor Relations Commission.

It should be noted that the president of the Union in his letter to the Hotel's general manager dated May 31, 1974 stated that Charge No. 5657 had "been terminated by virtue of the arbitration" (Annex O of Petition). That allegation was admitted in paragraph 4 of the Union's answer. Hence, only CIR Case No. 3448-V was pending when the CIR became functus officio on November 1, 1974.

The Union in its memorandum concedes that the only issue in this case is the jurisdiction of the CIR over Case No. 3448-V.

We are of the opinion that the petition for certiorari is meritorious. The CIR acted without jurisdiction in entertaining Case No. 3448-V whose subject matter was within the original and exclusive jurisdiction of the National Labor Relations Commission. It erred in not granting the Hotel's motion to dismiss.

WHEREFORE, the order dated February 20, 1974 and the resolution of July 29, 1974, being coram non judice, are set aside. Pursuant to Section 338* of the Labor Code, the Union's prayer that CIR Case No. 3448-V be transferred to the new National Labor Relations Commission is granted. No costs.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, and Fernandez, JJ., concur.

* The Legal Staff of the Department of Labor and the Union's lawyer note that article 338 is now article 339 of the amended Labor Code. No copy of the decree containing the amendment is available.

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