

PEDRO YUCOCO AND DIOSDADO LACUNA, PETITIONERS, VS. AMADO G. INCIONG, ACTING SECRETARY OF LABOR, AND SHAMROCK WELL-DRILLING ENTERPRISES, INC., RESPONDENTS.

G.R. No. L-49061. March 29, 1982

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

Petition for certiorari, to annul and set aside the decision rendered by the respondent Amado G. Inciong, then Acting Secretary of Labor, in case No. 5894-ULP of the defunct Court of Industrial Relations, entitled: "Shamrock Supervisors Association, et al., complainants, versus Shamrock Well-Drilling Enterprises, Inc., et al., respondents," which reversed the decision of the National Labor Relations Commission and dismissed the complaint filed in the said case.

The factual background of the case is as follows:

In a complaint dated October 21, 1972, the Court Prosecutor of the defunct Court of Industrial Relations, pursuant to Section 5(b) of Republic Act No. 875, charged the Shamrock Well-Drilling Enterprises, Inc. and Jose Ferrer, its personnel and office manager, with unfair labor practice, within the meaning of Section 4(a), subsections 1 and 4, of Republic Act No. 875, committed against the Shamrock Supervisors Association and Pedro Yucoco and Diosdado Lacuna, as follows:

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"3. That sometime on September 28, 1969, complainant union was organized and the corresponding certificate of registration was issued by the Department of Labor on October 22, 1969;

"4. That on October 24, 1969 and October 27, 1969, respectively, complainants sent respondents two (2) separate letters informing the latter of the former's organization with a desire to negotiate a collective bargaining agreement, attaching a proposed copy thereof;

"5. That on November 17, 1969, complainants filed a notice of strike with the Department of Labor due to respondents interference in the right of the employees to self-organization;

"6. That respondents discriminated against complainants in regard to their hire or tenure of employment in order to discourage membership with complainant union by dismissing Diosdado Lacuna on November 20, 1969 and Pedro Yucoco on November 25, 1969 on account of their being president and vice-president of the union respectively and their militant union activities."[1]

The respondents, in an Amended Answer dated April 24, 1974, denied all the material allegations of the complaint and interposed the affirmative and special defenses that the complainants terminated their employment with respondents by their own acts and/or were terminated for legal and valid causes, and that complainants have no valid cause of action against the respondents, alleging the following:

x x x x x x x x

"5. That complainant Diosdado Lacuna is a casual employee who was taken in by the Company on July 1st 1969 and laid off on November 20, 1969;

"6. That upon receipt of the complainants' letters aforementioned, respondents conferred with them for purposes of arriving at an agreement on their proposals but while thus negotiating, complainants committed acts of negotiating in bad faith as publishing among complainants-employees and workers derogatory reports against respondents and its officers and leading, initiating and fomenting a strike against respondent company not only by their own union but also by the other union of the rank-and-file employees;

"7. That while respondents attended to the conciliation conferences held at the Bureau of Labor in connection with the complainants' notice of strike, they however failed to appear thereat and/or refused to conciliate reasonably;

"8. That while the matter was being conciliated, as aforesaid, complainants instigated the rank-and-file union to join them in staging a strike and thus they did lead and stage a company-wide strike against respondents and committed unlawful picketing, grave coercion and other illegal acts against respondent company's employees and workers who were then reporting for work; and continued the same illegal acts for some time;

"9. That while the striking members of the rank-and-file union settled amicably the strike with respondents, complainant union officers failed and refused to settle their differences amicably;

"10. That in view of the aforesaid illegal acts of complainant union officers, they were accused before the City Court of Manila for coercion, docketed as Criminal Cases Nos. F-132642 to F-132645, which cases are still pending before said Court, where warrants of arrest are likewise pending service on them for their failure to appear at scheduled hearings;

"11. That complainants terminated their employment with respondents by their own affirmative acts and/or were terminated for legal and valid causes;

"12. That prescinding from the foregoing, complainants have no cause of action against respondents as in fact they did not personally and directly initiate this Complaint as can be seen from par. 1 of the Complaint where their respective addresses are now shown but merely alleges service of process in the care of Atty. Felipe Fuentes who is no longer handling this case for complainants."[2]

Issues of the case having been joined, the case was heard on the merits, after which the Labor Arbiter of the National Labor Relations Commission rendered a decision on November 22, 1976, finding the respondents guilty of unfair labor practice and ordered them to cease and desist from further committing such unfair labor practice and to reinstate the individual complainants Pedro Yucoco and Diosdado Lacuna to their former positions with all the rights and privileges appurtenant thereto prior to their dismissal in November, 1969, with back wages corresponding to their three (3) years salary in the amount of P25,200.00 and P14,400.00, respectively, citing the Court's decision in the case of People's Bank and Trust Co, vs. People's Bank and Trust Company Employees Union, 162 Phil. 15. In finding the respondents guilty of unfair labor practice, the Labor Arbiter stated:

"The series of acts and intrigues generated by and thru the officials of the respondent company after the formal organization of the Shamrock Supervisors Association were all geared towards the destruction of the labor union.

"The following were the events and/or acts taken into consideration by the undersigned Labor Arbiter in finding the respondents guilty of unfair labor practice charge.

"1. The complainant union was organized in the later part of September 1969 and its formal organization with the Department of Labor was on October 22, 1969 (Exhibit 'D'). The President of the union notified the

respondent company in writing of the existence of the union and its proposal for a collective bargaining agreement on October 24, 1969 (Exhs. 'H' and 'I'). The respondents had knowledge of the persons vigilantly fighting for the right of the union and the employees. These are the individual complainants.

"2. The respondents refused to recognize the union and confer with complainant union.

"3. Complainant union was constrained to file a notice of strike with the Department of Labor (Exh. 'K').

"4. After the organization of the complainant union and the conference before the Department of Labor, it had become apparent to the respondents that complainants would seek reform in the respondent company so it had become apparent on the respondents to terminate the services of the persons behind the organization of the union in order to destroy its back-bone.

"5. The individual complainants were terminated on November 20 and 25, 1969, respectively (Exhs. '1-I' and '1-M'). The reasons given by the respondents are:

a) losses

b) bargaining in bad faith on the part of complainants.

"6. The termination of individual complainants and the interference of respondents with union's activities prompted the complainants to file an unfair labor practice charge against the respondents before the defunct Court of Industrial Relations.

"There is reason to doubt the genuineness of the documents submitted by the respondents to prove losses. It must be noted that the alleged losses were so timed that the termination of the individual complainants all surfaced when the union was organized and the union demanded recognition for purposes of collective bargaining agreement.

"The dismissals of individual complainants Pedro Yucoco and Diosdado Lacuna were made in retaliation against their being the President and Vice-President respectively of the complainant union.

"It may be true that the respondent company suffered losses, the same could not be used to cover up the anti-union activities of the respondents.

"Admittedly, the parties engaged themselves in acts calculated to harass each other but for as long as the methods employed by the union are peaceful, the respondents can not interfere with the activities of the union. The respondent in this case did their best to destroy the union and tried to prevent it from taking roots in the respondent company's premises."[3]

The respondents appealed and the First Division of the National Labor Relations Commission, in its Resolution dated July 22, 1977, modified the judgment of the Labor Arbiter to the effect that the individual complainants, Pedro Yucoco and Diosdado Lacuna, are only entitled to their one-year's salary, without any qualification, or the amounts of P8,400.00 for Pedro Yucoco and P4,800.00 for Diosdado Lacuna, stating:

"On the backwages, we noted that while the dismissals were effected on November 1969, yet the complaint was filed by the CIR Court Prosecutor only on October 21, 1972, the delay of which can not be reasonably attributed to the respondents. Because of this, we are limiting the backwages to one year salary only, without any qualification, or in the sum of P8,400.00 for Pedro Yucoco and P4,800.00 for Diosdado Lacuna."[4]

Consequently, the complainants appealed to the Office of the Secretary of Labor insofar as the Resolution reduced the back wages to only one (1) year's salary, contending that the delay in filing the formal complaint in court was not through their fault; and besides, the said delay was already taken into account in fixing the back wages at three (3) years, following the decision of this Court in the case of Insular Life Assurance Co. Ltd. Employees

Association-NATU, et al. vs. Insular Life Assurance Co. Ltd., et al., (G.R. No. L-25291, March 10, 1977, 76 SCRA 50).

The respondents also appealed, though belatedly, and on June 8, 1978, the respondent Amado G. Inciong, then Acting Secretary of Labor, rendered the decision in question, stating that the respondent company was justified in removing or terminating the complainants.

Hence, the present recourse.

The questions presented boil down to the principal issue of whether or not the respondent Shamrock Well-Drilling Enterprises, Inc. is guilty of unfair labor practice for dismissing the petitioners.

It is our considered opinion, under the facts and circumstances of the case that the said respondent company is guilty of unfair labor practice in dismissing the petitioners for union activities. The petitioners, Pedro Yucoco and Diosdado Lacuna, were the president and vice-president, respectively, of the Shamrock Supervisors Association, a duly registered labor union composed of the supervisors of the respondent company. On October 24, 1969, the president of the union notified the respondent company of the existence of the union and its proposal for a collective bargaining. The respondent company, however, refused, so that the union filed a notice of strike with the then Department of Labor. In retaliation, the respondent company dismissed the petitioners on November 20 and 25, 1969, for reasons of alleged losses, and bar-gaining in bad faith on the part of the petitioners. Proof of losses, however, was found inadequate. The Labor Arbiter found that "there is reason to doubt the genuineness of the documents submitted by the respondents to prove losses;" that "it must be noted that the alleged losses were so timed that the termination of the individual complainants all surfaced when the union was organized and the union demanded recognition for purposes of collective bargain-ing agreement;" and that the petitioners are not guilty of an illegal strike.

The findings of the respondent Acting Secretary of Labor that the petitioners are integral part of management and, in effect, may not organize and bargain collectively, is untenable. It is already well settled that under Section 3 of Republic Act No. 875, supervisors may form separate organizations of their own and that their union is entitled to all the rights under Republic Act No. 875.[5]

The respondent Acting Secretary of Labor thus said:

"As acting field superintendent and acting yard overseer, Yucoco and Lacuna were integral parts of management. At least with respect to the employees working under them, Yucoco and Lacuna were the management at their respective levels. Without their loyalty, support and cooperation, management could not manage effectively the field and the yard. In other words, their role was to manage in behalf of the company in their respective places of assignment. They were pre-cisely employed and paid for such purpose.

"When Yucoco and Lacuna and the supervisory union under their leadership as president and vice president co-authored with the rank and file employees and their union a letter protesting alleged non-payment of certain wages and salaries, when Yucoco and Lacuna and their supervisory union co-signed with the rank and file employees and their union a letter demanding the introduction of a payroll system, when Yucoco and Lacuna and their supervisory union filed a notice of strike simultaneously with the rank and file union, when Yucoco and Lacuna and their supervisory union actually staged a strike simultaneously with the rank and file union, they – Yucoco and Lacuna and their supervisory union – abandoned, betrayed and, in effect, turned against their proper role as parts of management. They ceased to perform the services for which they were hired, employed and paid by their employer. Worse still, they made it impossible for management to manage effectively the field and the yard under their supervision. Therefore, in the interest of self-preservation, in the interest of the life of the enterprise, management had no choice but to remove them. Because they have ceased to perform or deliver the services for which they were hired, employed and paid, and moreover they had

overtly and systematically stood in the way of the performance or delivery of those services, management was justified in removing or terminating them." [6]

The fact that the herein petitioners have joined cause with the rank and file employees of the respondent company or had acted in concert with them for the purpose of collective bargaining does not constitute an unfair labor practice on the part of the union. Section 4(b) of Republic Act No. 875, which enumerates the acts constituting unfair labor practice of the union, or Section 15, thereof, (violation of duty to bargain) does not include the acts set forth by the respondent Acting Secretary of Labor as grounds for dismissal of an employee. On the other hand, Section 3 of Republic Act No. 875 expressly allows employees, and this term includes supervisors, to assist labor organizations of their own choosing for the purpose of collective bargaining. In the case of *Filoil Refinery Corporation vs. Filoil Supervisory & Confidential Employees Association, et al.*, [7] the Court said:

"As stated for the Court by the now Chief Justice in *AG & P Co. of Manila, Inc. vs. C.I.R.* (8 SCRA 672), section 3 of the Industrial Peace Act 'explicitly provides that "employees" - and this term includes supervisors - "shall have the right to self-organization, and to form, join or assist labor organizations of their own choosing for the purpose of collective bargaining and other mutual aid protection" and that "individuals employed as supervisors x x x may form separate organizations of their own." Indeed, it is well settled that "in relation to his employer," a foreman or supervisor "is an employee within the meaning of the Act" x x x. For this reason, supervisors are entitled to engage in union activities and any discrimination against them by reason thereof constitutes an unfair labor practice.'" (Underscoring supplied for emphasis)

The argument of the respondent Acting Secretary of Labor that the alliance of the supervisory union and the rank and file employees would make management completely vulnerable to blackmail and extortion on the part of the alliance, [8] is also untenable. The same argument was expressed in the *FILOIL* case (*supra*) and the Court therein said:

"So with petitioner's thesis that '(T)o then give supervisors the right to compel employers to bargain would in effect align labor and management together against stockholders and bondholders (capital) and inexorably tilt the balance of power in favor of these hitherto conflicting forces. This is contrary to the nature and philosophy of free enterprises.' This further serves to point up the validity and rationale of the Industrial Peace Act's provision, since the supervisors and confidential employees, even though they may exercise the pre-rogatives of management as regards the rank and file employees are indeed employees in relation to their employer, the company which is owned by the "stock-holders and bondholders (capital)" in petitioner's own words, and should therefore be entitled under the law to bargain collectively with the top management with respect to their terms and conditions of employment." [9]

It results that the respondent Acting Secretary of Labor erred in dismissing the complaint of the herein petitioners. The Labor Arbiter correctly ruled that the said petitioners are entitled to their three (3) years salary, without qualification, pursuant to the decision of this Court in the case of *People's Bank & Trust Company Employees Union*. [10]

WHEREFORE, the judgment appealed from should be, as it is hereby REVERSED and SET ASIDE, and another one entered affirming the decision of the Labor Arbiter, dated November 22, 1976. With costs against the respondent *Shamrock Well-Drilling Enterprises, Inc.*

SO ORDERED.

Barredo, (Chairman), De Castro, Ericta, and Escolin, JJ., concur. Aquino, J., dissent. He votes for the affirmance of the decision of the NLRC. Abad Santos, J., on official leave.

[1] Rollo, p. 39.

[2] Id., pp. 137-138.

[3] Id., pp. 51-53.

[4] Id., pp. 61-64.

[5] Caltex Filipino Managers and Supervisors Association vs. Court of Industrial Relations, G.R. Nos. L-30632--33, Sept. 28, 1972; 47 SCRA 112.

[6] Rollo, p. 69.

[7] G.R. No. L-26736, Aug. 18, 1972; 46 SCRA 512.

[8] The respondent said: "Had management yielded to the demands of Yucoco, Lacuna and their supervisory union acting in concert with the rank and file union, management would have become captive of the alliance or conspiracy between the supervisory union and the rank and file union, an alliance or conspiracy which was evidently under the domination of acting filed superintendent Yucoco and acting yard overseer Lacuna. Considering the strategic role of the field and the yard to the operation of the company, such a situation would have made management completely vulnerable to blackmail and extortion on the part of the alliance." (Rollo, p. 71.)

[9] at pp. 519-520.

[10] G.R. No. L-39598, Jan. 13, 1976, 69 SCRA 10.

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