

EUSEBIO ADAME, FELIX CUYNO, ERNESTO DABAN, ERNESTO DELA CRUZ, EMILIO GALIMA, AMADO LIWA, VIRGILIO DELINA, EDOVIGES TABUD-LONG, ELIODORO BERNADAS, DANIEL TECSON, RICARDO VILLONES...

G.R. Nos. L-33221 and L-33262-63. April 28, 1975

Ponente: AQUINO, J.

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AQUINO, J.:

This is an appeal by certiorari interposed by eighty workers (should be seventy-eight because petitioners Pablo Pagaran and Victoria Moring are dead; See page 189, Rollo) of La Fuerza, Inc. and their labor union known as Assembly of Laborers & Tenants Organization (Alto as acronym), to set aside the resolution en banc of the Court of Industrial Relations (CIR) dated January 7, 1971.

In that resolution the CIR dismissed Cases Nos. 2275-V, 4587-ULP and 4728-ULP (two for unfair labor practice and one for authorization to dismiss employees) and reversed the decision of Judge Joaquin M. Salvador, finding La Fuerza, Inc. and its four officers guilty of unfair labor practice, ordering the reinstatement of the complaining workers and the payment of damages and back wages.

The overly complicated and controversial factual background of the cases is as follows:

La Fuerza, Inc. has a distillery with an office at 399 Muelle de Binondo, Manila and a plant at 2241 Pasong Tamo Extension, Makati, Rizal.

In April, 1966 Alto organized at La Fuerza, Inc. a local known as Alto La Fuerza Labor Union. On June 1, 1966 the union sent to La Fuerza, Inc. a proposal for a collective bargaining agreement. La Fuerza, Inc. through its counsel, rejected the demands, in a letter dated July 1, 1966 (Exh. C).

The management was apparently antipathetic to the unionization of its employees. During the period from May 31 to July 26, 1966 La Fuerza, Inc. dismissed seventy employees. It closed its Binondo office on June 14, 1966.

On that date, it circularized the workers in its Makati plant to submit within five days from notice health and police clearance certificates with the warning that noncompliance would be a ground for dismissal. The Mayor of Makati in letters dated June 21 and 23, 1966 ordered La Fuerza, Inc. to close its plant by reason of the alleged failure of its employees to secure health and police clearance certificates as required by a certain ordinance. The Makati municipal health officer on June 27, 1966 advised La Fuerza, Inc. to comply with the ordinance; otherwise, criminal proceedings would be instituted.

Alto on June 8, 1966 sought the assistance of the Labor Counselling Division of the Bureau of Labor Relations for preventive me-diation (Exh. D). At the preventive mediation conference, Alto and La Fuerza, Inc. agreed that the question as to whether Alto or the Lakas ng Manggagawang Makabayan should represent the workers at La Fuerza, Inc. for collective bargaining purposes should be decided by the CIR. Alto in fact filed a petition in the CIR for a certification election (Case No. 1715-MC). It was later dismissed (Exh. 16).

Case No. 2275-V (La Fuerza, Inc. vs. Marcial Ave and forty other employees); L-33221. — On July 19, 1966 La Fuerza, Inc. filed with the CIR a petition, praying for authority to dismiss forty-one workers in its Makati plant on the grounds that they had not secured the requisite health and police clearance certificates and that they had sabotaged its business by deliberately slowing down production.

The forty-one respondents averred in their answer that the objective of La Fuerza, Inc. was to destroy the union. They filed a counterclaim for unfair labor practice.

On July 26, 1966 the Makati plant was closed by the Mayor. Forty-one workers, including women, were charged in the municipal court by the Mayor and by a police major with having violated the ordinance requiring health certificates. Thirty were arrested and confined in the Makati jail.

Case No. 4587-ULP (Alto vs. La Fuerza, et al.); L-33262. — On September 2, 1966 the CIR's Chief Prosecutor, at the instance of Alto, filed a complaint for unfair labor practice against La Fuerza, Inc.; Jose Mariano Lim, its president; Prudencio Lim, vice-president; Go Yu Tiong, production manager, and Agapito Sales, an alleged personnel manager, in connection with the dismissal of twelve employees of La Fuerza, Inc. who were union members. The list of workers, who were dismissed due to union activities, was later amended so as to include seventy employees in all.

The respondents, in their answer to the charge of unfair labor practice, alleged that they refused to negotiate with the Alto local because there was no showing that it represented the majority of the employees of La Fuerza, Inc. and because the employees, soon after proposing a collective bargaining agreement, became arrogant and insolent, threatened to stage a sit-down strike and violated company rules and regulations.

Case No. 4728-ULP (Alto et al vs. La Fuerza, Inc., Agapito Sales and Prudencio Lim); L-33263. — On April 13, 1967 a CIR prosecutor, at the instance of Alto and twelve of its members, filed a complaint for unfair labor practice against La Fuerza, Inc. He charged that on October 21, 1966 Sales and Lim dismissed the twelve complainants, who were employees of La Fuerza, Inc., because they were members of the union.

The respondents in their answer denied the charge of unfair labor practice and countered that Alto had no legal personality. Moreover, some of the complainants resigned and demanded separation pay but refused to sign receipts for the payment of their monetary demands.

Other proceedings. — The thirty employees of La Fuerza, Inc., who were arrested and charged with having failed to renew their health certificates, were convicted and were each sentenced by the Makati municipal court on October 10, 1966 to pay a fine of fifty pesos with subsidiary imprisonment at the rate of one peso a day. They appealed.

The Court of First Instance of Rizal, upon motion of the Provincial Fiscal, who reinvestigated the cases, dismissed the same on April 1, 1967 on the ground that the ordinance, although valid, was unenforceable because, after its passage, it was not duly posted at the main entrance of the municipal building (*People vs. De Dios*, 106 Phil. 1159).

In the CIR the three cases were consolidated. A joint hearing was held. In his decision dated May 11, 1970 Judge Salvador found that La Fuerza's petition for authority to dismiss its forty-one employees, who did not renew their health certificates, was devoid of merit.

In the other two cases, he found that La Fuerza, Inc., and its officers, Go Yu Tiong, Prudencio Lim, Jose Mariano Lim and Agapito Sales, were guilty of unfair labor practice for interfering with its employees' right to form a union, requiring them to withdraw from the Alto and refusing to bargain collectively with their representative

(Sec. 4, Republic Act No. 875).

Judge Salvador ordered La Fuerza, Inc. to reinstate the complainants to their former positions with back wages at the rate of six pesos daily from the dates of their dismissal up to the date of reinstatement.

He further ordered La Fuerza, Inc. and its four aforementioned officers to pay moral damages in the sum of P5,000 to each complainant who was arrested or imprisoned; nominal damages of P1,000 to each claimant with the exception of Adalia Mariano and the deceased Pagaran, and exemplary damages of P1,000 to each complainant.

La Fuerza, Inc. and its officers moved for the reconsideration of Judge Salvador's decision. Judge Salvador, in a proposed resolution for the CIR en banc, dated August 18, 1970, eliminated from his decision the award of damages because there were no "allegations, prayers and evidence on the award of damages". Moreover, the question of damages was being litigated in Civil Case No. 9832 of the Court of First Instance of Rizal, entitled La Fuerza, Inc. versus Alto et al.

Judge Salvador reiterated his finding as to the unfair labor practice committed by La Fuerza, Inc. and affirmed the reinstatement of the dismissed workers with the modification that casual employees should not be reinstated and that from the back wages should be deducted the earnings of the complainants "elsewhere" and the wages corresponding to the period when the distillery was closed and the complainants were imprisoned.

To that proposed resolution penned by Judge Salvador, Presiding Judge Arsenio I. Martinez prepared a dissent dated August 28, 1970, wherein he voted for the reversal of Judge Salvador's decision. Judge Amando C. Bugayong concurred in that dissent. So did Judge Emiliano C. Tabigne in his opinion dated August 29, 1970 with the qualification that he did not believe that the dismissed employees should be awarded separation pay.

It would seem that the CIR deliberated further on the case and that Judge Martinez's proposed dissent became the resolution en banc. It was dated January 7, 1971. It had the concurrence of Judge Bugayong dated January 15, 1971. Judge Tabigne's opinion of August 29, 1970, which was a concurrence in Judge Martinez's dissent, was for legal purposes treated as a concurrence in Judge Martinez's resolution of January 7, 1971 (that resolution was identical to his dissent *mutatis mutandis*). Judge Ansberto P. Paredes did not take part.

As stated at the beginning of this decision, the CIR en banc in its aforementioned later resolution of January 7, 1971 dismissed the three cases without prejudice to "whatever actions other than (those) covered by the Industrial Peace Act, as damages and collusion complainants may have against any party" (sic) which "should be ventilated in the regular courts". Judge Salvador maintained his proposed resolution of August 18, 1970.

The workers appealed. They made the CIR, La Fuerza, Inc. and its four officers as respondents. The counsel for the seventy-eight petitioners herein and their union, Alto, with much passion and vehemence, argues in their petition and brief that the CIR erred (1) in committing "the gravest abuse of judicial discretion" by disregarding the law and the evidence on the "culpability" of La Fuerza, Inc. and its officers; (2) in holding that the petitioners were justifiably dismissed and (3) in eliminating the trial judge's award of damages, a procedure which was characterized as "highly irregular".

Quitclaims and motions to dismiss filed by a majority of the petitioners-appellants during the pendency of these cases in this Court. — On March 12 and 23, May 6 and June 4, 1971, or after the petition for review was filed in this case, fifty-six (56) of the petitioners or dismissed employees, filed a manifestation and opposition to the appeal accompanied with deeds of quitclaim and release, signed by Pio Salaum in his individual capacity and as president of La Fuerza Labor Union. The opposition of March 12 reads in part as follows:

"2. That we are already satisfied with the decision rendered by the Court of Industrial Relations in these cases and we are not interested in appealing from the said decision.

"3. That to show our conformity and accord with the majority decision of the CIR, we are attaching herewith copies of our individual manifestations with the CIR together with our duly sworn Deed of Quitclaim and Release, which manifestations and deeds of quitclaim release are hereto attached as Annexes A x x x (to A-55), respectively and made integral parts of this opposition.

"WHEREFORE, we respectfully pray that the petition for certiorari be denied for having become moot and academic, we being already satisfied with the judgment of the CIR sought to be reviewed".

A similar manifestation had been filed by Pio Salaum in the CIR on March 3, 1971. In that manifestation he stated that he was satisfied with the CIR's decision. He prayed that entry of final judgment be made in Cases Nos. 2275-V, 4587-ULP and 4728-ULP.

The deed of quitclaim and release, mentioned in the opposition was duly witnessed and acknowledged before a notary. It reads as follows:

"That I, PIO V. SALAUM, Filipino, of legal age, and at present residing at 3972-A R. Magsaysay Blvd., Sta. Mesa, Manila and one of those in whose favor a judgment was rendered in Cases Nos. 4528-ULP and 4728-ULP of the CIR, having already been satisfied by La Fuerza, Inc. of all monetary benefits available to me under the judgment, hereby manifest that I have no intention of going back to my former employment and, accordingly, I hereby RELEASE and QUITCLAIM in favor of La Fuerza, Inc., Go Yu Tiong, Prudencio Lim, Jose Mariano Lim and Agapito Sales, respondents in said cases from any all liabilities adjudged under the said judgment absolutely and forever.

"IN WITNESS WHEREOF, I have hereunto set my hand on these presents on this 22nd day of February, 1971 at Manila.

Sgd. Pio V. Salaum"

(Witnesses and notarial acknowledgement are omitted)

Aside from Salaum, the fifty-five (55) other dismissed employees, who also signed deeds of release and quitclaim and filed similar manifestations with the CIR, signifying their conformity with its resolution en banc, are the following:

1. Florencia Silagon
28. Pilar Culanay
2. Ruperto Cuñado
29. Salvador Magbiray
3. Daniel Tecson
30. Juliana S. Macaraan
4. Zoilo T. Ipanag
31. Carmen Cerdeña
5. Carmelita de la Pena
32. Evangelina Santos
6. Nicolas Limoran
33. Juanita Dayot
7. Belen Alejandro
34. Aniceta Sarmago
8. Apolinario Jamen
35. Asuncion Dalde
9. Warlito Gamas
36. Alberto Prado
10. Jose Gamutan
37. Teofista de las Alas

11. Jaime Dalnay 38. Nicolas Paimulan
12. Apolonio Castillon 39. Fruto Ucat
13. Irene Lllano 40. Elmer Adame
14. Zenona Ugat 41. Pacita Jamen
15. Eliodoro Bernadas
42. Yolanda Corona
16. Felix Cuyno 43. Alejo Olajay
17. Adriano Dagacdac 44. Basilio Inojales
18. Sustenesa Jamen 45. Mamerto Cagampang
19. Josefina Balagot 46. Rosita Ho
20. Alfredo Castillon 47. Leon Ciudadano
21. Jose Abrea 48. Lorenza Doloritos
22. Luis Sandoval
49. Florencio Refamonte
23. Ildefonso P. Acma 50. Herculana Magdayo
24. Ernesto Pajo 51. Briccio Cempron
25. Zenaida Paimalan 52. Amado Liwa
26. Ernesto Daban 53. Marcial Ave
27. Concepcion Legaspi 54. Remy E. Casicas

55. Erlinda P. Saquilayan (who expressly manifested that she never authorized the filing of this case)

Almost simultaneously with Salaum's opposition, or on March 13 and 25, 1971, the respondents herein, namely, the CIR, La Fuerza, Inc. and its four officers, filed in this Court a motion to dismiss the petition or to declare the case moot and academic by reason of Salaum's motion and on the basis of the aforementioned quitclaims and supporting manifestations, attesting conformity with the CIR's resolution dismissing the three cases.

Petitioners' counsel, in his comment on Salaum's opposition to the appeal and on respondents' motion to dismiss it for having become moot, contended the quitclaims were void because they were obtained through deceit and misrepresentation.

Counsel invoked the provision that the CIR's jurisdiction to prevent any unfair labor practice "shall not be affected by any other means of adjustment or prevention that has been or may be established by an agreement, code, law or otherwise" (Sec. 5[a], Industrial Peace Act), as well as the prohibition against yellow dog contracts contained in section 8 of the same law (See 51 C. J. S. 1024, note 34).

He also relied on article 6 of the Civil Code on waiver of rights. He assailed the legality of the CIR's resolution en banc dated January 7, 1971 which was concurred in by only two Judges instead of three.

Annexed to petitioners' comment were the affidavits of (1) Ildefonso P. Acma, (2) Jose Abrea, (3) Teofista de las

Alas, (4) Eliodoro C. Bernadas, (5) Pilar Culanay, (6) Juanita Dayot, (7) Apolinario Jamen, (8) Irene Llanos, (9) Salvador Magbiray, (10) Zenaida Paimalan, (11) Ernesto Pajo, (12) Luis Sandoval, (13) Daniel Tecson, (14) Zenaida Ugat, (15) Ernesto Daban, (16) Ruperto Cuñado, (17) Jose Gamutan, (18) Concepcion Legaspi and (19) spouses Adriano Dagacdac and Sustenesa Jamen (Annexes A to A-18). Those twenty affiants were signatories to the deeds of quitclaim already mentioned.

According to those nineteen revocatory affidavits, respondent Sales, the personnel manager of La Fuerza, Inc., approached the workers, who signed the deeds of release and quitclaim, and informed them that they could not beat La Fuerza, Inc. in this Court "because of its money and influence" and that their lawyer, Armando V. Ampil, "had already been paid by La Fuerza" and would side with the latter. It was further alleged in the affidavits of retraction, which were practically identical mutatis mutandis, that Sales secured the signatures of the workers to the deeds of quitclaim on the promise that La Fuerza would pay each of them four hundred pesos.

The respondents, in their counter-comment and manifestation, which were reinforced by an affidavit of Sales, affirmed that the deeds of quitclaim were executed voluntarily and were not tainted with fraud or deceit and that no credence should be given to the recantations made by the twenty affiants who had signed the deeds of quitclaim.

In view of the conflicting contentions of the parties on the due execution of the quitclaim, this Court, in its resolution of April 29, 1971, required the CIR to receive evidence on the same without prejudice to giving due course to the appeal of the petitioners who did not file motions to dismiss.

In the meantime, the respondents were required to answer the petition in a notice dated May 18, 1971. In their answer, they alleged that Alto's registration had been cancelled and it had ceased to be a labor union. They denied that Sales was a personnel officer and alleged that he was a retained lawyer of the firm. They averred that only fifteen petitioners were washers of bottles and that the rest were employed in the packing and bottling departments. They denied that Alto represented the majority of La Fuerza employees and alleged that another union, Lakas ng Manggagawang Makabayan, claimed to be the representative of the said employees. They defended the CIR's resolution en banc dated January 7, 1971.

The respondents further alleged that La Fuerza, Inc. instituted in the Court of First Instance of Rizal on February 21, 1967 a complaint for damages against Alto, Florencio Guevara, and forty-one employees of La Fuerza, Inc. which was docketed as Civil Case No. 9832 (already mentioned). The defendants therein answered the complaint. After trial, Judge Pedro C. Navarro, in a decision dated March 29, 1971, ordered the defendants to pay solidarily to La Fuerza, Inc. P5,000 as compensatory damages, P2,500 as exemplary damages and P500 as attorney's fees.

In passing, it may be mentioned that Apolinario Jamen, one of the petitioners herein, who signed a deed of quitclaim and later retracted it, filed (like Erlinda Saquilayan) an urgent motion for the dismissal of this case dated November 16, 1971. He supported his motion with an affidavit wherein he stated that the recantation secured from him by petitioners' counsel was false.

Petitioners Asuncion Daleon (de Leon) and Emilio Galima filed a similar urgent motion for dismissal dated January 3 and June 20, 1972, respectively, stressing that they did not authorize the appeal in this case. (Thus, fifty-eight petitioners already asked for the dismissal of the appeal, leaving only nineteen as ostensible appellants).

Petitioners' counsel, in his comment on Galima's motion for dismissal, alleged that the workers, who asked for the dismissal of the appeal, were each given by La Fuerza, Inc. two hundred to three hundred pesos which they accepted out of sheer necessity and in the erroneous belief that their appeal would not prosper.

In compliance with the Court's aforementioned resolution of April 29, 1971, Judge Salvador, after hearing, rendered a report, recommending that the deeds of quitclaim "be admitted, and, upon their admission," the CIR be directed by this Court to issue the corresponding entry of judgment with respect to "all the petitioners who signed" the quitclaims.

Judge Salvador reasoned out that the twenty petitioners, who retracted their deeds of quitclaim and made "loose and irresponsible misrepresentations" as to how their signatures were obtained, could have first consulted their counsel before signing the quitclaims. He said:

"Instead, they choose to accept whatever amount has been offered by the private respondents. Upon signing the deeds of release, they never said anything and it was only when their own counsel wrote to them demanding payment of attorney's fees, did they choose to break their enforced silence and executed the affidavits (of recantation) in question, imputing deceit and misrepresentation to private respondents.

"The undersigned in particular, whose opinion became the minority opinion of the respondent Court decries the attempt to besmirch the reputation of the judges of this Court (CIR). However, even if such procedure may have been adopted by the private respondents, the misrepresentation could easily have been discovered had they consulted their own counsel who has always been ready to help them as shown by the records of these cases.

"It is therefore respectfully submitted that whatever deception has been exercised by the private respondents is not sufficient to overcome the validity of the Deeds of Quitclaim and Release executed by the 52 petitioners mentioned in the Resolution of this Court of April 29, 1971 in the above-entitled cases".

Petitioners' counsel, disagreeing with Judge Salvador's recommendation, alleged that the quitclaims implied that La Fuerza committed unfair labor practices against the petitioners.

The respondents, in reply to the comment of petitioners' counsel, averred that it was the latter who coerced the twenty petitioners to retract their quitclaims. Only Apolinario Jamen, Zenona Ugat and Pilar Culanay, three of the twenty petitioners, were presented at the hearing before Judge Salvador to prove the allegation that the quitclaims were executed through deceit and misrepresentation. Jamen, at that hearing, affirmed what he stated in his later affidavit of November 16, 1971 before Attorney Pedro B. Rabadon, the Deputy Clerk of Court and Administrative Officer of this Court, that he retracted his quitclaim because petitioners' counsel told him that he would not press upon Jamen his (counsel's) demand for the payment of three hundred pesos as attorney's fees if Jamen would retract his quitclaim (82 tsn Aug. 5, 1971). The same testimony was given by Zenona Ugat. Pilar Culanay said that when she "received something about attorney's fee" she "saw Attorney Ampil" (45 tsn October 5, 1971). The respondents prayed that Judge Salvador's recommendation be approved.

In addition to the fifty-eight petitioners, six more petitioners, named (1) Ernesto de la Cruz, (2) Dominador Cagatin, (3) Patricio Cagas, (4) Eduviges R. Tabudlong, (5) Eusebio Adame and (6) Adelaida Sajulga, filed in this Court on August 23, 1973 verified motions to dismiss on the ground that they were satisfied that they had "no valid cause to appeal" and it was their desire "to have the instant case terminated". A similar motion was filed by Virgilio Delina on September 6, 1973.

On the other hand, Faustino Cagatin, in behalf of his son, Rodolfo Cagatin, a petitioner, who was allegedly non compos mentis filed on September 28, 1973 a verified motion to dismiss this case, alleging that such dismissal was in consonance with "truth and justice".

Petitioner's counsel controverted the right of Faustino Cagatin to represent his demented son, Rodolfo, since Faustino's motion does not bear the stamp of judicial approval.

It results that of the seventy-eight (78) petitioners, sixty-six (66) had already asked for the dismissal of the appeal. The following is a supplemental list of the petitioners who also signed quitclaims:

56.

Asuncion de Leon

60. Patricio Cagas

57. Emilio Galima 61. Eduvigis R. Tabudlong

58. Ernesto de la Cruz 62. Eusebio Adame

59. Dominador Cagatin 63. Adelaida Sajulga

64. Virgilio Delina

65. Rodolfo Cagatin (allegedly insane is represented by his father, Faustino Cagatin)

(The 66th movant is Pio V. Salaum, the president of the union)

The following twelve remaining petitioners have maintained the appeal:

1.

Ricardo Villones

7. Apolonio Lumpot

2. Bernardo Casila 8. Magdalena Macawili

3. Rodolfo Casila 9. Luzviminda Avila

4. Nena Oliva 10. Agustina Inojales

5. Felisa Cuyno 11. Leonila Padilla

6. Felicitas Granadas 12. Marcelo Paimalan

The issues to be resolved are (1) whether the quitclaims and motions to dismiss of the sixty-six petitioners should be given effect as recommended by Judge Salvador and (2) whether the appeal of the remaining twelve petitioners is meritorious.

Ruling. — As to the quitclaims, we are of the opinion that they were voluntarily executed and that, as recommended by Judge Salvador, they should be given effect. The retractions made by the twenty petitioners cannot nullify their quitclaims. Hence, petitioners' motions to dismiss and for entry of judgment are hereby granted.

The case of Rodolfo Cagatin is excepted. As to him the appeal is dismissed because, not being sui juris and not being represented by a judicial guardian (he is apparently of age and could not be represented by his father), he was not competent to be a petitioner in this appeal without at least a guardian ad litem.

The quitclaims were in the nature of a compromise agreed upon between the employer and the majority of the members of the union. In that connection, it was held in *Dionela vs. Court of Industrial Relations*, L-18334, August 31, 1963, 8 SCRA 832, that a compromise agreement entered between the union and the employer,

whereby an unfair labor practice charge against the employer was withdrawn in consideration of the payment of an amount equivalent to three months' separation pay to each striking employee, was considered binding on the minority members of the union.

That holding was based on the ruling that where the dismissal was sought by the plaintiff union itself acting through the instrumentality of its governing body and also in accordance with the wishes of the overwhelming majority of the members thereof, the CIR did not abuse its discretion or violate any legal rule in dismissing the case (*Betting Ushers Union (PLUM) vs. Jai Alai Corporation*, 101 Phil. 822). It was also based on the ruling that the law encourage compromise (Sec. 27, Industrial Peace Act; *Jesalva vs. Hon. Bautista and Premiere Productions, Inc.*, 105 Phil. 348).

The remaining twelve petitioners raised factual issues whose resolution requires close examination of the testimonies and the documentary evidence.

In unfair labor practice cases the CIR's factual findings, if supported by substantial evidence in the record, are conclusive on this Court. The appeal is limited to legal questions (Sec. 6, Industrial Peace Act).

CIR decisions are open to review on appeal by certiorari only as to legal questions and not as to factual issues nor as to the sufficiency of evidence to support the CIR's factual conclusions (*Philippine Land-Air-Sea Labor Union vs. Kim San Rice & Corn Mill Co.*, L-18235, October 30, 1962; 6 SCRA 376).

The CIR, sitting en banc, is not bound to accept blindly the factual and legal findings of its trial judge. The CIR has to ascertain whether his findings are supported by the record (*Philippine Air Lines, Inc. vs. Philippine Air Lines Employees Association*, 104 Phil. 1058).

Three CIR Judges disagreed with the finding of Judge Salvador that La Fuerza, Inc. committed acts of unfair labor practice. After analyzing the testimony of Agapito Sales and taking into account that Alto's registration was in doubt and that the imprisonment of the workers was due to the enforcement by the Mayor and municipal health officer of the aforementioned ordinance regarding health certificates, the three CIR judges concluded that no unfair labor practice was committed. This Court cannot reverse that factual finding which is supported by substantial evidence in the record (Compare with *East Asiatic Co., Ltd. vs. Court of Industrial Relations*, 63 O. G. 11437).[*]

However, inasmuch as, according to the record, La Fuerza, Inc. gave separation pay to the fifty-five petitioners who signed quitclaims, it is but just that the remaining twelve petitioners should also receive separation pay under the Termination Pay Law. (Compare with *Sta. Cecilia Sawmills, Inc. vs. Court of Industrial Relations*, L-19273-74, February 29 and May 25, 1964, 10 SCRA 433 and 11 SCRA 46, where three months' backpay was awarded in lieu of reinstatement, relying on *Erlanger & Galinger, Inc. and Nestle vs. CIR and. Flores*, 110 Phil. 470).

WHEREFORE, the motions of the sixty-six petitioners, previously named, for the dismissal of their appeal are granted. (The reason for the dismissal of Rodolfo Cagatin's appeal has already been stated.)

The appeal of the remaining twelve petitioners (also previously listed) is likewise dismissed for lack of merit.

However, in the interest of justice and under the exceptional facts of this case, the National Labor Relations Commission is directed to grant the twelve petitioners separation pay under the Termination Pay Law depending on the number of years that they had worked for La Fuerza, Inc. prior to their dismissal. No costs.

SO ORDERED.

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

Fernando, J., (Chairman), did not take part.

[*] La Fuerza's oral and documentary evidence is as follows:

Agapito Sales: Most of the La Fuerza workers were recommended for employment by him (18), including his godson, Pio Salaum (17). Atty. Lingan manifested, "since these people are close to him (Sales) the charge of unfair labor practice could be unnatural if . . . his special relations with these people" are taken into account (20). Alto entered (sic) La Fuerza by its letter of June 14, 1966 and Salaum told him they organized a union (26) to which he replied "he had no objection thereto provided . . . that they (were) affiliated with a union of good standing in the community who uphold the law and who believe in democratic process" (27).

After June 14, 1966, Salaum told him, "Ninong, we are already affiliated with the Alto" (32). He retorted, "If you will hear my side, of course it will depend upon you, take it or leave it. You know, this Alto . . . headed by Mr. Guevarra (32), I discovered, upon information of the employees of the Department of Labor . . . had not complied with the deficiencies (of its) affidavit that officers are non-communists and the financial accounting which was also required" (33).

He added, "Pio, you know strictly speaking this union will not last long, I am referring to Alto, because in the long run this union will be cancelled, your standing also as an affiliate of that union will also be . . . affected . . . if you like to proceed, you proceed but it is not anymore my fault whatever happens because I told you already" (33-34).

The workers, upon advice of their lawyer, did not secure the certificates (38, 40) and were arrested. La Fuerza was also closed (41). It reopened after two weeks upon his representation (43, 45, 46). The laborers did not return to their work in spite of the fact that when I met them, those who were bailed out, I told them to return to work but nobody ever returned because they were instructed by their lawyer not to return to work (46). He denied reproaching Tabudlong, Adame, De la Cruz, Delino and Paez, complainants herein, wherein a meeting with them he asked, "Why did you join the union . . . wala kayong utang na loob" (51, tsn, July 31, 1968).

Domingo Oliver, sanitary inspector of Makati: He inspected La Fuerza's Pasong Tamo plant on July 7, 1966 (13) because their records show that the workers' health certificates were about to expire (14); reinspected the factory on July 7, 1966 whereupon he asked of the management to show him the certificates but was informed that the works did not heed the management's request (17); gave sanitary orders to about five women workers (18) to allow them to renew their certificates within 3 days and that, if within the period, they could still not do so because of "so many work, we can still give them chance until . . . the only thing I gave them, I pursued my complaint is that I do not know why they are not renewing their certificates anymore" (20-21); so, he brought the matter to Fiscal Angara where he executed an affidavit (23, tsn, November 23, 1968).

Daniel Sabas, BIR label inspector, testified: He issued regular and auxiliary stamps to La Fuerza (11-12). There was a decrease in production for June 15 up to June 25, 1966 (16). La Fuerza determined and paid beforehand for the number of stamps to be issued by him (25, 26, 27, tsn, January 11, 1969).

Prudencio Lim: Vice-president of La Fuerza since 1969 (9); knew only two of the complainants (10); workers were arrested because they did not secure medical certificates (12); asked "Atty. Sales to find out whether they were willing to return" (14) but "they instead abandoned their work" (14, tsn, June 11, 1969).

Jose Mariano Lim: President and general manager of La Fuerza since 1962 (10); company policy was to have workers certificated (sic) (12); Go Yu Tiong assigned to execute the policy (13); upon expiration and non-renewal of the certificates, the company dismissed affected employee (15, tsn, July 2, 1966).

Go Yu Tiong testified: Factory-in-charge and production manager of La Fuerza since 1960 (11); kept records of the workers (13); complainants in Case 4587-ULP were La Fuerza workers under him (15); when the workers' health certificates expired, La Fuerza is "not supposed to allow them to work" (17). His procedure was to advise the workers before "expiration of the certificates to renew the same" (18) and if they refused, to report the same to management (19) which dismissed the employee (21).

Pio Salaum organized the Alto local at La Fuerza (24). Salaum went around soliciting signatures for the union during office hours and held meetings at the mess hall (26); production decreased as a consequence of unionism (26).

Sanitary Inspector Oliver came to La Fuerza in the first week of June, 1966 requesting laborers to renew their expired health certificates (31). The second time was on June 14, 1966 when Oliver "asked my permission to call employees one by one inside my office in order to advise them to renew their health certificates as they have already expired. So the laborers were called one by one inside my office and he explained to them that under the municipal ordinance of Makati, they are supposed to secure their health certificates because they are handling food and drinks" (32). La Fuerza employees named as respondents in Case 2275-V were arrested (38). Sixty-two (62) La Fuerza employees were Alto members, out of whom 41 were arrested and 12 were temporary laborers whose services were terminated on June 14, 1966 (40); none of the workers reported to work at La Fuerza after their arrest (48).

The respondents presented the following documentary evidence:

Number and nature of Exhibit

1 - Letter of La Fuerza's counsel dated June 11, 1966 to Pio Salaum, union president, requiring him to report for work or he would be dismissed.

2 - Letter of Mayor Estrella to La Fuerza, Inc. dated July 25, 1966, advising La Fuerza, Inc. to stop operations in view of the complaints filed against its workers for violation of the health certificate ordinance.

3 - A sanitary order dated June 27, 1966 sent by the sanitary inspector to La Fuerza, Inc. inviting its attention to its violation of Ordinance No. 132, Series of 1953.

3-A - A list of forty employees of La Fuerza, Inc. who had no health certificates.

4 to 7-F - Various tax receipts.

8 to 8-NN - Complaints against employees of La Fuerza, Inc. for violation of the ordinance.

9 to 9-CC, etc. - Judgments convicting La Fuerza employees of violation of the ordinance.

10 - Affidavit of Adalia Mariano, an employee of La Fuerza, Inc., dated April 26, 1967, stating that she never authorized the union to file a complaint for unfair labor practice against La Fuerza, Inc.

11 - (not in the record).

12 - Circular dated June 14, 1966 issued by the management of La Fuerza, Inc., requiring its employees to secure health and police clearance certificates.

13 - Mayor Estrella's letter to the manager of La Fuerza, dated June 21, 1966 advising him to stop operations because its workers had no health and police clearance certificates.

13-A - Mayor Estrella's letter of June 23, 1966 reiterating his request that the company should stop operations.

14-A - Employees' daily time records.

15 - Decision of Acting Registrar of Bureau of Labor Relations dated May 22, 1967 cancelling Alto's

registration certificate.

16 - Notice of decision of dismissal of CIR Case No. 1715-MC.

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