

**KAPISANAN NG MGA MANGGAGAWA NG ALAK (NAFLU)
PETITIONER, VS. HAMILTON DISTILLERY COMPANY, CO BON BENG,
MARIANO ANG ENG AND HAMILTON WORKERS' UNION,
RESPONDENTS.**

G. R. No. L-18112. October 30, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by certiorari from a decision of the Court of Industrial Relations dismissing the complaint herein for unfair labor practice.

Respondent, Hamilton Distillery Company or Hamilton Wine Manufacturing Co., hereinafter referred to as the Company, is a commercial establishment engaged in the manufacture of wine in the Philippines, whereas respondents Co Bon Beng and Mariano Ang Eng are the superintendent or cashier, and the manager, respectively, thereof.

On September 24, 1957, two (2) labor unions, composed of employees and laborers of the Company, were registered with the Department of Labor, namely, petitioner Kapisanan ng mga Mangagawa ng Alak (NAFLU), hereinafter referred to as the NAFLU, and respondent Hamilton Workers' Union, hereinafter referred to as the Workers' Union. Thereupon, the latter and the Company entered into a collective bargaining agreement, incorporated into a private instrument purporting to have been executed on September 24, 1957. Moreover, the Company issued a notice bearing the same date, addressed to all of its employees, giving non-members of the Workers' Union thirty (30) days within which to join the same, or else, be dismissed.

There is evidence to the effect that, upon learning that the NAFLU was being organized, or on September 23, 1957, Co Bon Beng sent for Francisco Dumlao, and inquired whether it was true that he had organized said labor union and was its president; that, upon receipt of an affirmative answer, Co Bon Beng urged Dumlao to dissolve the NAFLU, for otherwise he would be dismissed; that when Dumlao answered that he could not follow this advice, Co Bon Beng bade him to look for another job; that on September 24, 1957, Co Bon Beng refused to admit him to work, upon the ground that he was unwilling to dissolve the NAFLU; that, subsequently, some members thereof resigned therefrom and joined the Workers' Union, because otherwise they would be dismissed by the Company; that, beginning from September 30, 1957, those who remained affiliated to the NAFLU were allowed to work only two (2) days a week; and that on October 28, 1957, the following members of the NAFLU, who did not join the Workers' Union, were dismissed by the Company, namely:

1. Ambos, Avelina
21. Bayano, Ramon
2. Belarmino, Gliceria

22. Cruz, Jose de la
3. Bada, Adora
23. Diaz, Angel
4. Cerezo, Rosa
24. Dumalo, Francisco
5. Cerdeno, Josefa
25. Gindoy Luis, Jr.
6. Cobarrubias, Luz
26. Gonzaga, Atanacio
7. Cobarrubias, Corazon
27. Gawiran, Gorgonio
8. Castranero, Filomena
28. Jusay, Ruben
9. Cenon, Marina
29. Ignacio, Antonio
10. Dumlao, Cristina
30. Labusta, Engracio
11. Cruz, Elena de la
31. Libatique, Cerilo
12. Esquivel, Plavia
32. Martin, Ramon
13. Evangelista, Rosalina
33. Hermogeno, Esther
14. Francisco, Rosita
34. Javier, Mercedes
15. Flores, Dorotea
35. Lacsamana, Nenita
16. Germeno, Caridad
36. Manreza, Avelina
17. Pique, Remedios
37. Masiglat, Norma

18. Vigo, Leda
38. Montealegre, Angelina
19. Avinante, Simplicio
39. Yumul, Laura
20. Brion, Felix
40. Reyes, Elnora
41. Sarmiento, Purita
47. Mendoza, Roman
42. Santos, Crisanta
48. Montevirgen, Manuel
43. Perez, Cresencia
49. Opinaldo, Fernando
44. Martin, Jorge
50. Santos, Vicente
45. Martin Severino
51. Reyes, Felicisimo
46. Mariano, Anicito
52. Sanchez, Esteban

These dismissed employees reported the matter to the Court of Industrial Relations, with which a formal complaint for unfair labor practice was, on November 28, 1957, filed, by an acting prosecutor of said court, against the Company, its aforementioned superintendent or cashier and manager, and the Workers' Union. In their answer to this complaint, respondents denied the charge and invoked, in justification for said dismissal of members of the NAFLU, a "closed shop" clause in the collective bargaining agreement between the Company and the Workers' Union.

Meanwhile, or on October 11, 1957, the NAFLU had filed with the Court of Industrial Relations a petition for certification election (Case No. 500 MC), in view of which said court issued an order dated October 19, 1957, directing that copies thereof be posted for the information of the employees and laborers concerned and that copies of the petition be served upon the corresponding officers of the Company and of the Workers' Union. Still later, or on November 25, 1957, the NAFLU filed, in the unfair labor practice proceedings, an urgent petition for an injunctive relief, praying, among other things, that the effectivity of the collective bargaining agreement between the Company and the Workers' Union be suspended and that the Company be ordered to reinstate the dismissed employees or laborers with backpay. This petition was denied on January 3, 1958. In due course thereafter, or on December 29, 1960, said Court rendered a decision dismissing the unfair labor practice case. A reconsideration of such decision having been denied by the Court sitting en banc, the case is now before us on appeal by certiorari taken by the NAFLU.

The main issues in this appeal are: (1) whether or not the collective bargaining agreement between the Company

and the Workers' Union had been made fraudulently; and (2) whether or not the dismissal of members of the NAFLU who had failed and refused to join the Workers' Union constitutes an unfair labor practice.

With respect to the first issue, one cannot minimize the importance of the fact that, although the Workers' Union was registered on September 24, 1957, its collective bargaining agreement with the Company and the notice issued by the Company—giving its employees who were not members of the Workers' Union thirty (30) days to join the same, Or else be dismissed—bear the same date. Likewise, note—worthy is the circumstance that, aside from being a Chinese, Valentin Kaw, the president of the Workers' Union was the timekeeper of the Company, who as such, had supervisory authority over its employees and laborers, and could, therefore, exercise substantial pressure upon them to induce, if not compel, them to join the Workers' Union, and that the treasurer thereof was his brother Benito Kaw, another Chinese. Considering further that said agreement was contained in a private document, and that the NAFLU was, also, registered as a duly organized labor union, on the date aforementioned, we find it difficult to avoid the feeling that the Workers' Union was, if not company dominated, at least organized under the patronage of the Company, and that the same was in such a hurry to bargain with the Workers' Union, in order to beat the NAFLU and prevent it from taking appropriate action prior thereto, that the agreement was made in a Private instrument, thus suggesting that it must have been made late at night. Otherwise the agreement could have been executed before a notary public for the corresponding acknowledgment.

Indeed, the record shows that, despite several defections from the NAFLU, prior to the expiration of the period given by the Company to non-members of the Workers' Union, the Company had to dismiss 52 members of the NAFLU, apart from its president, for failure to join the Workers' Union within said period. Considering that the Company had altogether around 100 employees only, it is clear that a petition for certification election, if filed by the NAFLU prior to the execution of the collective bargaining agreement between the Workers' Union and the company, would have, in all probability, barred effectively said agreement.

Independently of the foregoing, the provisions thereof do not legalize the dismissal of members of the NAFLU. The lower court held otherwise, relying upon the "closed shop" clause of said agreement reading:

"That the COMPANY shall establish the policy of 'Union Shop' effective October 24, 1957. All workers shall by that date become members of the UNION, except those monthly salaries employees, and other supervisor-employees (technical men) listed by the Management. The COMPANY shall be free to hire new laborers with out giving consideration to their membership or non-membership to the UNION. However, all laborers hired must join the UNION within sixty (60) days of employment, or face discharge, except, those selected by the Management above. The UNION assumes responsibility of individually signing up new laborers."

In this connection, it is well settled in this jurisdiction that, in the absence of a manifest intent to the contrary, "closed shop" provisions in a collective bargaining agreement "apply only to persons to be hired or to employees who are not yet members of any labor organization" and that said provisions of the agreement are "not applicable to those already in the service at the time of its execution" (*Confederated Sons of Labor vs. Anakan Lumber Co.*, 107 Phil., 915; *Local 7, Press & Printing Free Workers [FFW] vs. Judge Tabigne*, 110 Phil., 276; *Freeman Shirt Manufacturing Co. vs. CIR*, 110 Phil., 962; *San Carlos Milling Co. vs. CIR*, 111 Phil., 323; *Talim Quarry Co., Inc. vs. Bartolo*, 111 Phil., 933).

The language of the above quoted "closed shop" clause is not such as to bar necessarily the limitation of its application to new employees or laborers, or at least, to those who were not as yet affiliated to any labor organization. The first sentence of said clause may be construed to refer to laborers or employees admitted after September 24, but before October 24, 1957. At any rate, if the Company and the Workers' Union intended, by said clause, to authorize the dismissal of persons already in the service of said Company on or before September

24, 1957, but belonging to another labor organization, and who failed to quit from the latter and join the Workers' Union on or before October 24, 1957, then such stipulation would be null and void (*Findley Millar Timber Co. vs. PLASLU*, L-18217 and L-18222 (September 29, 1962)). As held in *Freeman Shirt Manufacturing Co., Inc. vs. CIR* (*supra*):

"The closed-shop agreement authorized under sec. 4 subsec. a (4) of the Industrial Peace Act above quoted should however, apply only to persons to be hired or to employees who are not yet members of any labor organization. It is inapplicable to those already in the service who are members of another union. To hold otherwise, i.e., that the employees in a company who are members of a minority union may be compelled to disaffiliate from their union and join the majority or contracting union, would render nugatory the right of all employees to self-organization and to form, join or assist Labor self-organization of their own choosing, a right guaranteed by the Industrial Peace Act (sec. 3, Rep. Act No. 875) as well as by the Constitution (Art. III, sec. 1[6])."

Wherefore, the decision appealed from is hereby reversed, and another one shall be entered ordering the Company to cease and desist from further unfair labor practices, to pay the members of the NAFLU who had been discriminated against the difference between the compensation actually paid to them and that which they would have received had there been no discrimination, and to reinstate the employees named above, with back wages from the time of their dismissal until their actual reinstatement, with all of the rights and privileges appertaining thereto, as well as to pay the costs. It is so ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala and Makalintal, JJ., concur.

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