

LA CAMPANA FOOD PRODUCTS, INC. AND LA CAMPANA CHEMICAL INDUSTRIES, INC. EMPLOYEES ASSOCIATION, PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS, LA CAMPANA FOOD PRODUCTS, INC., LA...

G.R. No. L-27907. May 22, 1969

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

For the second time the unfair labor practice case lodged by petitioner against respondents comes up before this Court.

Charging grave abuse of discretion, the present petition for review on certiorari with prayer for preliminary injunction seeks the annulment of the resolution of the Court of Industrial Relations (CIR) en banc of April 6, 1967 and promulgated on July 31, 1967 directing reopening of CIR Case 3985-ULP and directing further proceedings thereon. Assertion is now here made by petitioner that prior to such order of April 6, 1967, the judgment in said case (CIR Case 3985-ULP) has become final and executory. The reason given is that the resolution of this Court of May 23, 1966 in G.R. L-25903[1] denying review of said CIR judgment in the aforementioned unfair labor practice case, for lack of merit, has become final, and that on August 22, 1966, entry of final judgment has been recorded.

We issued a writ of preliminary injunction upon a P200-bond.

As we turn back to the record, we find that on January 25, 1966 in the aforesaid case 3985-ULP, CIR Associate Judge Ansberto P. Paredes rendered judgment finding that private respondents herein are "guilty of unfair labor practice as charged and are hereby ordered to cease and desist from further committing the same, to reinstate all the members of complainant union mentioned in paragraph 5 of the Amended Complaint (hereinabove copied) to their former positions without loss of seniority, and other benefits and privileges, and to pay their respective backwages from December 4, 1963, date of filing of the charge basis of the Complaint, until actual reinstatement." Private respondents moved for reconsideration. On March 18, 1966, CIR en banc denied the motion.

As aforesaid, this Court, on May 23, 1966, dismissed respondents' appeal for lack of merit in G.R. L-25903. On July 12, 1966, we denied the motion to reconsider. It was on August 20, 1966 when herein private respondents made of record in this Court that they were no longer filing a second motion for reconsideration and instead would pursue another course of action in CIR.

On the date heretofore adverted to, August 20, 1966, private respondents filed a motion for new trial before CIR alleging newly discovered evidence, honest mistake and insufficiency of the evidence. On September 15, 1966, the writer of the decision below, Judge Ansberto P. Paredes, inhibited himself in view of the fact that a close relative of his entered appearance as counsel for respondents.

On February 18, 1967, Judge Emiliano C. Tabigne, finding herein respondents' motion for new trial unmeritorious and time-barred, denied said motion.

Came the challenged CIR en banc resolution of April 6, 1967 penned by Judge Emiliano C. Tabigne directing reopening and further proceedings. This opinion was concurred in by Judge Amando C. Bugayong (in the result) and Judge Joaquin M. Salvador. Presiding Judge Arsenio I. Martinez and Judge Ansberto P. Paredes took no part.

1. The main issue here to be resolved, as presented by petitioner, is whether CIR may legally reopen the case after judgment thereon has become final and executory with the dismissal by this Court of the appeal therefrom of herein respondents.

This problem calls into question the applicability of Section 17 of Commonwealth Act 103, as amended - particularly the proviso thereof which reads:

"SEC. 17. Limit of effectiveness of award. - An award, order or decision of the Court shall be valid and effective during the time therein specified. In the absence of such specification, any party or both parties to a controversy may terminate the effectiveness of an award, order or decision after three years have elapsed from the date of such award, order or decision by giving notice to that effect to the Court: Provided, however, That at any time during the effectiveness of an award, order or decision, the Court may, on application of an interested party, and after due hearing, alter, modify in whole or in part, or set aside any such award, order or decision, or reopen any question involved therein."

For, CIR took the position that while the court's decision of January 25, 1966, affirmed by CIR en banc on March 18, 1966, had become final and executory, it was still within the power of CIR to reopen the case upon the proviso just quoted. CIR took stock of the claim that certain members of petitioner union executed affidavits refuting the veracity of the testimony of Dionisio L. Sison which became the basis of the questioned decision; that private respondents were precluded from cross-examining petitioner's other witnesses whose testimony also was the basis of said decision, and were not allowed to adduce evidence to substantiate their defense.

On the merits of the affidavits in support of the new trial, we need but reproduce the order, the first, of Judge Tabigne of February 18, 1967 -

"As to the remaining first ground (newly dis-covered evidence), the Court is of the considered opinion and so holds that the alleged affidavits of the six (6) members of complainant union (Annexes '1' to '6' to the petition at bar), five (5) of whom are complaining members and two (2) of them even testified in court, cannot be considered, much less be given the color of, newly discovered evidence which respondents could not, with reasonable diligence, have discovered and presented during the trial on the merits of the case. For affidavits of retraction or recantation which are characterized by a confession of perjury and an allusion of conspiracy between the lawyers and officers of the union on one hand and the latter's witness (Dionisio L. Sison) on the other are to be considered unreliable and must not in any way be allowed to prevail over testimonies freely given by witnesses in open court and wherein the adverse party has all the opportunities to cross-examine and test the credibilities of said witnesses. This has to be so because discovery of new evidence or of new witnesses, or impeaching witnesses examined during the original hearing or tending to show subornation of perjury of such witnesses is not sufficient to justify relief. And this is even obvious from the context of the affidavits where none of the affiants, especially Eligio Oblero and Proceso Forteza who testified in court, claim that it was not Sison who dismissed them. Similarly, a claim that the testimony upon which a judgment has been based was false or per-jured is no ground to assail said judgment unless the fraud refers to jurisdiction. Moreover, to give credit to such kind of affidavits would not only give way to vicious and vexatious proceedings but would also run counter to the principle that 'the finality of litigation and stability of judicial decision both require that conclusions once reached as the out-come of legal proceedings should not be changed.' The reason for this is that all questions that had been discussed and passed upon in the decision have

already acquired the character of *res judicata*. And it must be remembered in this connection that all matters relative to the issue of dismissal had already been finally adjudged when respondents' petition for review was dismissed by the Supreme Court for lack of merit, and, therefore, can no longer be entertained in the instant petition for new trial." [2]

Neither is there merit to the statement of respondent CIR that herein private respondents were precluded from cross-examining petitioner's witnesses and that they were not allowed to adduce evidence to substantiate their defense. Of the ten witnesses presented by petitioner in the court below, only two were not cross-examined. But why? From the very decision of Judge Paredes of January 25, 1966 itself - which had long since reached the state of finality - we find that private respondents were represented by two attorneys. Each of them received previous notice of the hearing of July 21, 1965 at which date petitioner rested its case. And yet, neither attorney appeared thereat. On July 30, 1965, as stated in the said decision, "it was respondents' turn to adduce evidence and as there was again no appearance whatsoever on their part, the Court considered the case submitted for decision and cancelled the hearing for August 2, 1965." [3]

It would appear to us then that private respondents were not deprived of any right at all. They lost that right by default. They cannot now complain. They had two attorneys. Both of them did not appear, not even on the date set for the presentation of their own evidence. They cannot lay the blame at the door of the court. Their concept of justice is obnoxious to our concept of diligence.

On top of all of these, there is the final judgment of this Court dismissing private respondents' petition for the review of the decision. To be recalled at this point is Section 15 of Commonwealth Act 103, as amended, which in terms emphatic provides that upon the receipt of the judgment of this Court by the Clerk of the Court of Industrial Relations, such judgment "shall immediately become conclusive, final and executory."

Reopening of the case in the circumstances presented is beyond CIR's power.

2. The foregoing notwithstanding respondents vehemently contend that reopening is not yet closed to CIR.

We make the prefatory statement that the disputed CIR order of April 6, 1967 directing further proceedings was not issued purposely "to carry into effect the decision" previously rendered. Nor is it aimed at "a confirmation of the judgment". Which, it must be conceded, are both proper. [4]

But CIR relied on *Church vs. La Union Labor Union*, 91 Phil. 163, 168-169, and *Apo Workers Union vs. Castillo*, 97 Phil. 998 (unreported). *Church vs. La Union Labor Union* is not to be read as giving comfort to respondents cause. There, the original decision directed petitioner to reinstate the laborers who went on strike, or, in the event such is not possible, to give them one month pay in lieu of notice of separation from service. The amended decision in turn ordered petitioner to reinstate in Manila those laborers who desired to be reemployed therein and to give one month separation pay to those who preferred not to be so reemployed. In upholding the amended decision, this Court observed that the arrangement so made was deemed the most equitable solution to the plight of the laborers whose right to be reinstated has been subsequently subverted by petitioner by closing its depot at San Fernando, La Union, and resuming its operations in Manila. The amendment could thus be made for the reason that the closing of the San Fernando depot came about after the original decision. In the language of this Court in that case, "the award was amended x x x because of developments that had later taken place which had the effect of changing the relative situation of the parties." [5]

Nor is the *Apo Workers Union* case to be equated with the present. In *Apo Workers Union*, the union, on February 2, 1953, filed in CIR a petition that the company pay all union members Christmas bonus. Petition was granted. The company did not appeal. Afterwards, on October 15, 1953, respondent Judge Castillo issued an order approving the claim for attorneys' fees of Enage & Beltran. Subsequently, Judge Castillo issued a clarifying order

stating that "every worker who is a beneficiary under the order, has to pay a 10% attorneys' fees." After the order, Attys. Muaña & Logarta, counsel for the Cement Workers Union, intervened, because their client, the said Cement Workers Union, then had another case pending in the same court against the same company, the Cebu Portland Cement Company, involving the same Christmas bonus claimed by Apo Workers Union, and because they assert "their right to share in the amount to be paid by the laborers of said union by way of attorney's fees." The trial court dismissed the intervention. The appeal to CIR en banc remained unacted upon. We ruled that insofar as said motion for intervention was concerned, the order directing the payment of attorneys' fees to Enage & Beltran cannot be considered final, and that the lower court "may still alter or modify the same in the manner it may see fit as was done in this case by Judge Castillo", it appearing that "the period of three years from the time of the award made in favor of 'Enage & Beltran' has not yet transpired."

In the present case, there is no such supervening event noted in the Church and Apo Workers Union cases.

Here, the proposed testimony of two members of the union who recanted and that of the other union members who did not previously testify are not new. Neither is the failure to cross-examine petitioner's witnesses and to present evidence on behalf of respondents of any avail. They have been foreclosed in the court below and thwarted here on appeal. These are matters which cannot be resuscitated. The reason being that no new issue, no change in the relative position of the parties - which would warrant reopening of the case - has been adduced; no new matter which could not have been litigated is urged.[6] It is worth remembering that the rationale behind the proviso in Section 17 is that in labor cases, changes in situation could conceivably occur after the decision has become final.

Some such situation would arise if an event occurs after the decision which would nullify, or render impossible or inequitable, enforcement thereof. For instance, if the employer is thrown into bankruptcy, or the company's business has been destroyed or has suffered heavy losses or has considerably decreased.[7] So it is, that the authority of CIR to reopen a case under Section 17 of Commonwealth Act 103, as amended, must be based "only upon grounds coming into existence after the order or decision was rendered by the Court of Industrial Relations, but not upon grounds which had already been directly or impliedly litigated and decided by said court nor upon grounds available to the parties at the former proceeding and not availed of by any of them." Such is the ruling of this Court in *Pepsi-Cola Bottling Co. vs. Philippine Labor Organization*, 88 Phil. 147. This Court there emphasized that "[t]o hold, otherwise may give way to vicious and vexatious repetition of proceedings." [8]

In *Nahag vs. Roldan* 94 Phil. 87. 91, this Court in effect reaffirmed the Pepsi-Cola doctrine. We there said: "While the above section apparently authorizes the modification of an award at any time during its effectiveness, there is nothing in its wording to suggest that such modification may be authorized even after the order for the execution of the award has already become final - with respect, of course, to the period that had already elapsed at the time the order was issued. To read such authority into the law would make of litigations between capital and labor an endless affair, with the Industrial Court acting like a modern Penelope, who puts off her suitors by unraveling every night what she has woven by day. Such a result could not have been contemplated by the Act creating said court."

The ruling in *Pepsi-Cola* and *Nahag* takes on added dimension when in 1966 we repeated once again that CIR's power under Section 17 of Commonwealth Act No. 103 "to modify, alter or reopen any award, order, or decision, on application of an interested party, during the period of its effectiveness, x x x can be exercised only upon grounds coming into existence after the decision was rendered, not upon grounds already directly or impliedly litigated and decided, or which were, or could be, available to the parties during the original hearings." [9]

The baneful effects of a contrary rule are easily discernible.

CIR may then, after its own judgment has become final, freeze the decision, revive and reopen, decide and redecide a case, time after time, bandy its judgment from one suitor to the other, for so long as one witness may recant or another witness who could have testified may care to testify, or where representations can be made by new counsel that the former attorney has ineptly handled the case, and the like. Well did this Court say in a recent case (1965), that "if we interpret it [Sec. 17, CA 103] as conferring on the C .1. R. unconditional power to reopen finally adjudicated cases, its decisions and orders could never be relied upon as final; conflicts between capital and labor would be interminable; and industrial planning would become impossible." [10] With the result that, as pointed out in *Dy Cay vs. Crossfield & O'Brien*, 38 Phil, 521, 527, "litigation might become more intolerable than the wrongs it is intended to redress." In these circumstances, it is not at all improbable that the prevailing party may not live to enjoy the benefits of a decision favorable to him. We are confident that public policy and public interest will not permit some such situation to obtain.

4. We now come to the motion to dismiss filed in this Court on March 10, 1969 by new counsel for petitioner. In that motion, we read the averment that the petitioning union, "after careful and serious consideration of their Petition, taken in the light of recent developments affecting their relationship with the respondent-company, have decided that they have lost interest in the further prosecution of their claims"; that the unions legislative council, on February 5, 1969, adopted a resolution authorizing the new counsel to file a motion dismissing this case; that the former counsel who directed this case before this Court, Atty. Eulogio R. Lerum, had been relieved of his services in a letter of the union dated January 13, 1969; and that "the dismissal of this instant case would serve the best interests of both parties who are now in the process of formulating a collective bargaining agreement in their earnest desire to establish industrial peace and promote the economic well-being of all the parties concerned. This drew a reply from Atty. Eulogio Lerum that "while he admits that he had received termination notice from the alleged officers of the above named union, he had not been disauthorized by the complainants who had retained him to appear in their behalf" and that "said complainants are against the dismissal of their case for the reason that they want to vindicate their rights and it is against public policy to settle an unfair labor practice by amicable settlement (Sec. 5(a), Rep. Act 875)."

While it may be true that the labor union itself has lost interest in the case, we do not believe that such should give ground for the dismissal of this case. The labor union as a body in reality has not so great a material interest in the controversy as would prejudice it in the event of dismissal. It is the twenty-one (21) members for whose benefit the ULP case was prosecuted who stand to take tremendous losses. Nor is the argument that union and employer are now in the process of formulating a collective bargaining agreement of any consequence. That would not be affected by the decision we now render as an aftermath of the ULP case. Unless of course such a dismissal is a quid pro quo before the parties could sit around the bargaining table. Which surely enough is not to the "best interests" of the laborers.

And, as we examine the record, we observe that none of the members of the legislative council who adopted the resolution relied upon in the motion to dismiss is personally affected by the decision rendered by the CIR in Case 3985-ULP. That decision, it will be recalled, directs private respondents herein not only to reinstate the twenty-one (21) union members without loss of seniority and other benefits and privileges but also to pay their respective backwages from December 4, 1963, date of filing of the charge, basis of the complaint, until actual reinstatement. It is easy enough to perceive the injustice which may be visited upon these twenty-one (21) union members if the petition herein were to be dismissed. For then, a new trial, will be had, with the consequent trouble, expense, anxiety and another long delay before they could enjoy the fruits of their victory which they have legally and definitely won only after a long and protracted legal battle. At any rate, it is better on balance that we foreclose a flanking movement which could destroy rather than uphold the rights - to reinstatement and monetary award - of individual laborers acquired under the final judgment.

These are the considerations which leave us unprepared to throw the present petition out of court and instead prompt us to exercise the discretion granted by Section 4 of Rule 50 of the Rules of Court to decide this case on the merits since the same had already been submitted for decision as early as December 20, 1967.[11] It is timely at this point to recall the language of this Court in the 1918 case of *United States vs. Sotto*, 38 Phil. 677: "We hold that the rule announced in the case of *Dee See Chow vs. Stanley* (p. 208, ante) is applicable to criminal as well as to civil cases, and that, after a case has been heard and is submitted to the court for decision, the appellant cannot, a his election, withdraw the appeal."

For the reasons given, the petition herein for certiorari is granted; and the resolution of the respondent Court of Industrial Relations en banc dated April 6, 1967 issued in Case 3985-ULP is hereby set aside and declared null and void.

Costs against private respondents.

SO ORDERED.

Reyes, J.B.L. (Acting C.J.), Dizon, Makalintal, Zaldivar, Fernando, and Capistrano, JJ., concur.

Teehankee and Barredo, JJ., did not take part.

Concepcion, C.J., and Ruiz Castro, J., on official leave.

[1] Entitled "La Campana Food Products, Inc., et al., Petitioners, versus La Campana Food Products, Inc. and La Campana Chemical Industries, Inc. Employees Association, et al., Respondents."

[2] Rollo, pp. 72-74.

[3] Rollo, p. 37.

[4] *Luzon Brokerage Co. vs. Luzon Labor Union*, 83 Phil. 801, 803.

[5] At p. 168.

[6] *San Pablo Oil Factory, Inc. vs. Court of Industrial Relations*, 6 SCRA 628, 631-632.

[7] *Connell Bros. Company (Philippines) vs. National Labor Union*, 99 Phil. 1049 (unreported)

[8] At p. 149; emphasis supplied.

[9] *New Manila Lumber Co., Inc. vs. Centino*, 18 SCRA 125, 131. See also: *Rattan Art and Decorations, Inc. vs. Rattan Art and Decorations Union*, L-6466, May 21, 1954; *San Pablo Oil Factory, Inc. vs. Court of Industrial Relations*, supra.

[10] *Philippine Land-Air Sea Labor Union (PLASLU) vs. Cebu Portland Cement Company*, L-20987, June 23, 1965. See also: *Galvez vs. Philippine Long Distance Telephone Company*, 3 SCRA 418, 422-423.

[11] Section 4, Rule 50, Rules of Court, provides: "An appeal maybe withdrawn as of right at any time before the filing of appellee's brief. After that brief is filed the withdrawal may be allowed by the court in its discretion. The withdrawal of an appeal shall have the same effect as that of a dismissal in accordance with section 2 of this rule." Cf. *Krivenko vs. Register of Deeds*, 79 Phil, 461, 466-467.

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