

MANILA CLUB EMPLOYEES UNION, PETITIONER, VS. MANILA CLUB, INC., ROSS, SELPH & CARRAS-COSO, SYCIP, GORRES, VELAYO & CO., NOEL R.E. HAWKINS AND TANG KOO, RESPONDENTS.

G.R. No. L-21501. August 30, 1967

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal by certiorari from the resolution en banc of the Court of Industrial Relations dated May 28, 1963 in its Case No. 2658-ULP, entitled Manila Club Employees Union vs. Manila Club, Inc. et al., dismissing the case for lack of jurisdiction over the subject-matter.

The pertinent facts as found by the trial court are as follows:

"The Manila Club was organized into a corporation on August 23, 1907, and was granted a corporate life of 50 years. It is a non-stock corporation and it derives its income from the monthly dues of P20.00 from its nine (9) members, from the sales of whisky, liquor, wine and beer, from the income of its res-taurant, and from the charges from games. From the date of its organization up to the date when it was to close its busi-ness, the Manila Club has been known as the Manila Club and Manila Club, Inc., and said names were used in the employees' chits, vouchers and com-munications. Its corporate life expired on August 19, 1957, but be-fore closing up, it was granted 3 years of extension within which to wind its affairs. Before the term-ination of its corporate extension, or on August 10, 1960, the Manila Club was incorporated, and from that date on, it carried its name as the Manila Club, Inc. When its life term was about to terminate, all the employees were offered one-half of their monthly salary for each year of service because they allowed the employees of the old club to retire after 12 years of service. Only 13 employees accepted the offer and 27 or 29 did not. Those who did not accept the offer were served with notices of temporary employment, and on August 23, 1960, those who did not accept said offer began sign-ing from month to month basis of employment. From that date, August 23, 1960, the management extended to the complainants appointments on the month to month basis, because it was not sure of the definite course of operation of the new Manila Club, Inc. After the third month, management did not extend to the five complainants herein the month to month appointments anymore. Those who accepted the retirement offer were paid accordingly, and were employed in the Manila Club, Inc., as new employees."

On February 10, 1961, the Acting Prosecutor of the Court of Industrial Relations, upon charges lodged by petitioner Union, filed a complaint charging respondents[1] with unfair labor practice under Section 4(a), subsections 1 and 6 in relation to Sections 13 and 14, of Republic Act 875. Specifically the charge was based upon respondents' refusal to bargain collectively with petitioner and upon the dismissal of complainants (five of them in all, as named in the complaint) from the service.

After hearing respondents moved to dismiss on the ground of lack of jurisdiction. Petitioner opposed, and resolution on the motion was deferred until decision on the merits. On December 18, 1962, the trial Judge, Honorable Baltazar M. Villanueva, rendered a decision finding respondents guilty of unfair labor practice in refusing to bargain collectively with petitioner.

On December 28, 1962 respondents filed a motion for reconsideration, as follows:

"COME NOW respondents, through counsel, and before this Honorable Court respectfully move for reconsideration of its Decision of December 18, 1962.

The Arguments in support of this Motion cannot be submitted today; they will be sub-mitted within the reglementary period of ten (10) days."

The memorandum in support of the motion was filed on January 7, 1963 - within the reglementary period. On May 28, 1963 the Court of Industrial Relations issued a resolution en banc, the dispositive part of which reads:

"IN VIEW OF THE FOREGOING, We hold that this Court should have dismissed the present action for lack of jurisdiction of the subject-matter."

Petitioner appealed to this Court by certiorari and now avers that the Court of Industrial Relations in its resolution en banc erred: (1) in holding that it had no jurisdiction over the subject-matter of Case No. 2658-ULP; and (2) in not rejecting respondents' motion for reconsideration, for failure to state any ground or basis therefor.

The issue of jurisdiction depends upon the question of whether or not the Manila Club, Inc. is an entity or-ganized for profit. It is upon this question that the parties have submitted the case for resolution.

The defunct Manila Club and the Manila Club Inc. have the following identical purpose of incorporation: "to promote social relations among its members and, to that end, to establish and maintain, in the City of Manila, one or more club houses having a library, reading room, and such other appurtenances and belongings as are usual in social clubs and club houses." By express provision in its articles of incorporation: "It shall be a non-stock and non-profit corporation. Any and all monies and assets thereof shall be devoted exclusively to the furtherance of its activities. No dividends shall be declared, and no profit excepting as provided by law with respect to dis-tribution of the remaining assets in the event of dissolu-tion, shall inure to any individual member." It is a fact that the club has never declared dividends.

The foregoing should set the question at rest. Pe-titioner, however, makes much of the fact that the club operates a bar and restaurant, from which it makes some profit. The bar and restaurant cater only to club members, and its operation is only incidental to the promotion of social relations among them. That the club makes some profit does not destroy its non-profit character, in the same manner that a corporation organized for profit does not lose that character just because of losses incurred. As stated in a similar case, a club should strive, whenever possible, to have a surplus (Coll. of Internal Revenue vs. Club Filipino Inc. de Cebu, G. R. No. L-12719, May 31, 1962).

The case of The Elks Club vs. The United Laborers and Employees of the Elks Club, L-9747, Feb. 27, 1959, is in point. We held there that the Elks Club, which operates a dining room (restaurant), kitchen and bodega for the benefit and service of the members, is not a business run for profit, and therefore Republic Act 875, particularly, that portion thereof regarding labor disputes and unfair labor practice, does not apply to it. Consequently, the Court of Industrial Relations had no jurisdiction over the aforesaid case.

Even before the Elks Club case, the same ruling was laid down in many other cases. (Boy Scouts of the Philip-pines vs. Araos, 102 Phil. 1081; University of San Agustin vs. CIR, 103 Phil. 926; U.S.T. Employees Association vs. U.S.T. Hospital, 95 Phil. 40; San Beda College vs. CIR, et al., 97 Phil. 787; Quezon Institute vs. Velasco, 97 Phil. 905; Cebu Chinese High School vs. Philippine Land--Air-Sea Labor Union (PLASLU), G. R. No. L-21015, April 22, 1959; University of Santo Tomas vs. Villanueva, No. L-13748, October 30, 1959; and La Consolacion College vs. Court of Industrial Relations, No. L-13282, April 22, 1960.)

Petitioner stresses a statement in respondents' answer to the complaint in the court below that the Manila Club,

Inc. is an entity engaged in the recreation and restaurant business. Although there is such a statement, respondents deny that the entity is a profit-making one. The word "business," of course, in its plain and ordinary meaning, refers to activities or affairs where profit is the purpose or livelihood is the motive (*Collector of Internal Revenue vs. Club Filipino Inc. de Cebu*, supra). But it has been shown here that the Manila Club, Inc., was not organized for that purpose or motive, but for the promotion of social relations among its members. The articles of incorporation (Exhibit D) are the best evidence of this.

On the procedural question raised by petitioner, we find that the motion for reconsideration filed by respondents on December 28, 1962, and the memorandum in support thereof filed on January 7, 1963, comply substantially with Sections 15 and 16 of the Rules of Court of Industrial Relations, and held the case open for purposes of having the decision of Judge Baltazar M. Villanueva reconsidered by the Court en banc.

The resolution appealed from is hereby affirmed, with costs against petitioner Union.

Concepcion, C.J., Dizon, Bengzon, Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.

Reyes, J.B.L., J., reserves his vote in view of his position in *Boy Scouts of the Philippines vs. Araos*, 102 Phil. 1081 and other cases.

Ruiz Castro, J., did not take part.

[1] Respondents Ross, Selph & Carrascoso, as well as Sycip, Gorres, Velayo & Co. were included in their capacity as trustees of the Manila Club; while Hawkins and Tang Koo were included as chairman of the house committee and manager of the Club, respectively.

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