

VICENTE TAMAYO, PLAINTIFF AND APPELLANT, VS. SAN MIGUEL BREWERY, INC., DEFENDANT AND APPELLEE.

G. R. No. L-17749. January 31, 1964

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from the decision dated August 18, 1960 of the Court of First Instance of Manila, dismissing plaintiff-appellant's complaint in Civil Case No. 38813 on the ground of lack of jurisdiction.

Plaintiff-appellant was an employee of the San Miguel Brewery, Inc. from April 26, 1954 until July 3, 1958 on which latter date he was dismissed on the ground that he had been found guilty of tampering with the drying process control of the yeast plant of the company. Alleging that his dismissal was without cause, no evidence having been presented in an investigation to prove his guilt, plaintiff-appellant filed a complaint in the Court of First Instance of Manila. He prayed that he be reinstated, that he be awarded the sum of P5,000 as moral damages for mental anguish suffered as a result of his dismissal and that he be paid the sum of P1,000 by way of attorney's fees.

Defendant-appellee filed an answer in due time, denying the charge of the plaintiff-appellant and alleging that it had dismissed plaintiff-appellant for tampering with the drying process control which caused it damage. Defendant-appellee also contended that plaintiff-appellant had no cause of action since he had not resorted to the grievance procedure of the collective bargaining agreement and that the Court of First Instance of Manila did not have jurisdiction over the case.

On July 11, 1959, the lower court, on motion of defendant-appellee, dismissed the complaint on the ground that the same did not state a cause of action and that the trial court did not have jurisdiction over the subject matter of the action.

On July 27, 1959, plaintiff-appellant, through counsel, filed a motion for reconsideration and for leave to amend his complaint so as to assert that, under the amended collective bargaining agreement and the company's rules and regulations, he "may not be dismissed by defendant except for just and valid cause" so that his dismissal on July 3, 1958 was in violation of these provisions.

On the other hand, defendant-appellee opposed the motion on the ground that the complaint having been dismissed for failure to state a cause of action and for lack of jurisdiction, its subsequent amendment so as to cure the jurisdictional defect could not be allowed.

The lower court, however, admitted the amended complaint. And so defendant-appellee filed a motion for reconsideration and when this motion was denied, defendant-appellee filed its answer and later its amended answer to amended complaint. In its amended answer, defendant raised again the question of jurisdiction.

After due hearing, the trial court rendered a decision, dated August 18, 1960, dismissing the amended complaint on the ground that it had no jurisdiction to take cognizance of the case. In an order dated September 29, 1960, the

trial court denied plaintiff-appellants motion for reconsideration. Hence, this appeal, plaintiff-appellant contending that this case does not fall within the jurisdiction of the Court of Industrial Relations, as the lower court held, because it does not involve a charge of unfair labor practice, or a claim under the Minimum Wage Law or the Eight-Hour Labor Law.

On the other hand, defendant-appellee maintains that the case is cognizable by the Court of Industrial Relations in line with our ruling in *Price Stabilization Corporation vs. Court of Industrial Relations, et al.*, 108 Phil., 134. Defendant-appellee contends that reinstatement may only be ordered in unfair labor practice cases under Republic Act No. 875 which are within the jurisdiction of the Court of Industrial Relations. For purposes of maintaining the decision of the lower court which dismissed the complaint, defendant-appellee also argues that, after a complaint is dismissed for lack of jurisdiction, the same cannot be amended so as to bring a case within the jurisdiction of a court.

In the *PRISCO* case, we held that—

"* * * where the employer-employee relationship is still existing or is sought to be reestablished because of its wrongful severance (as where the employee seeks reinstatement), the Court of Industrial Relations has jurisdiction over all claims arising out of, or in connection with the employment, such as those related to the Minimum Wage Law and the Eight-Hour Labor Law. After the termination of the relationship and no reinstatement is sought, such claims become mere money claims and come within the jurisdiction of the regular courts."

A more recent definition of the jurisdiction of the Court of Industrial Relations is found in *Campos, et al. vs. Manila Railroad Co., et al.*, G. R. No. L-179G5, May 25, 1962, in which We held:

"We may, therefore, restate, for the benefit of the bench and the bar, that in order that the Court of Industrial Relations may acquire jurisdiction over a controversy in the light of Republic Act No. 875, the following circumstances must be present: (a) there must exist between the parties an employer-employee relationship, or claimant must seek his reinstatement; and (b) the controversy must relate to a case certified by the President to the CIR as one involving national interest or must have a bearing on an unfair labor practice charge, or must arise either under the Eight-Hour Labor Law, or under the Minimum Wage Law. In default of any of these circumstances, the claim becomes a mere money claim that comes under the jurisdiction of the regular courts." (Italics ours)

In this case, while plaintiff-appellant seeks his reinstatement, he does not hint at any unfair labor practice as having been committed by the defendant company against him. Neither is this a case certified by the President to the Court of Industrial Relations as involving national interest (Sec. 10, Republic Act No. 875) or a case arising under the Minimum Wage Law (Republic Act No. 602) or the Eight-Hour Labor Law (Commonwealth Act No. 444, as amended). Consequently, it is not cognizable by the Court of Industrial Relations.

Indeed, We held very recently in a similar case that a mere claim for reinstatement, unaccompanied by any allegation that the employee's dismissal was due to an unfair labor practice or that the case involves a claim under the Minimum Wage Law or the Eight-Hour Labor Law does not bring a case within the jurisdiction of the Court of Industrial Relations. (*Barranta vs. International Harvester of the Philippines*, G. R. No. L-18198, April 22, 1963; *Araullo vs. Monte de Piedad, et al.*, G. R. No. L-17840, April 23, 1953. See also *Perez vs. The Court of Industrial Relations, et al.*, G. R. No. L-18182, February 27, 1963.)

We now come to defendant-appellee's claim that since the original complaint was dismissed for failure to state a cause of action and for lack of jurisdiction over the subject matter, the amendment of the same so as to confer jurisdiction on the court is improper.

Recently, We ruled that a complaint cannot be amended so as to confer jurisdiction on the court in which it is filed, if the cause of action originally set forth was not within the court's jurisdiction. (Campos Rueda Corp. vs. Hon. Judge Bautista, et al., G.R. No. L-18452, September 29, 1962). In this case, however, although the order of July 11, 1959 stated that—

"The Court hence concludes that plaintiff's complaint does not allege facts sufficient to constitute a valid cause of action and the Court has no jurisdiction, of the subject mentioned hereof."

it is apparent that the ground for dismissal was the failure of the complaint to state a cause of - action alone. Indeed, the amendment introduced by the plaintiff-appellant consisted mainly of the allegation that his dismissal was in violation of the collective bargaining agreement and the rules and regulations of the company under which plaintiff-appellant "may not be dismissed by defendant except for just and valid cause." Certainly, this amendment did not confer jurisdiction on the trial court. The amendment merely corrected a defect in the allegation of plaintiff-appellant's cause of action, because as it then stood, the original complaint stated no cause of action in the light of our ruling in *Gutierrez vs. Bachrach Motor Co.*, 105 Phil., 7; that—

"In the absence of something in the contract of employment to fix a definite term of service, or other contract provision to restrict the right of the employer to discharge, or some statutory restriction upon the right, an employer may lawfully discharge an employee if at what time he pleases and for what cause he chooses, without thereby becoming liable to an action against him."

We hold therefore that the trial court did not err in allowing plaintiff-appellant to amend its complaint so as to plead the collective bargaining agreement.

Wherefore, the decision of August 18, 1960 and the order of September 29, 1960 are hereby reversed and the Court of First Instance of Manila is directed to decide this case on the basis of the evidence submitted by the parties. No costs.

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

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