

FELIX ASEJO, JOVITO AGUILLON, CARLOS DRANTOS, TEOFISTO JADIA, PRIMO MONES, SIMPLICIO ESTARES, BENITO BAWIGA, JOSE JAMCO, JOSE RANDIVILLA, BERNARDINO ELESTERIO AND MARIANO CONSUL...*G.R. No. L-19373. July 29, 1967*

Ponente: MAKALINTAL, J.

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The individual petitioners, now appellees, were unlicensed crew members employed in vessels owned and operated by respondent Adriano Chua Joy, doing business under the name South Sea Shipping Lines. Respondent United Seamen's Union of the Philippines was the representative of the employees, and had a collective bargaining agreement with the employer executed on June 28, 1957, to last for a period of two years, which agreement contained a closed shop clause. The petitioners, while still members of respondent union, affiliated with a rival organization, the General Maritime Stevedores Union of the Philippines. As members of the latter union they joined with others in filing, on April 30, 1958, a petition for certification election with the Court of Industrial Relations to determine which of the two organizations should represent the unlicensed crew members. In May 1958, upon being apprised of the filing of said petition, the United Seamen's Union demanded of the employer that the services of the petitioners be terminated, allegedly pursuant to the terms of the closed shop agreement.

Faced with the threat of expulsion, the petitioners went to the Court of First Instance of Manila for declaratory relief with preliminary injunction, specifically asking that the pertinent provision of the closed shop agreement relied upon by the respondents be declared illegal and void. The court granted the injunction on July 25, 1958, directing the respondents to "refrain from terminating the services of the petitioners and ousting them from their lawful employments and positions as unlicensed members of the crew of the vessels of the South Sea Shipping Lines."

On February 6, 1959, after trial, the court granted the relief asked for in the petition and made the injunction permanent. The case came up to this Court on appeal from that decision.

In the meantime the petition for certification election filed in the Court of Industrial Relations was dismissed on the ground that there was still an existing collective bargaining agreement with the United Seamen's Union. An appeal was interposed from the order of dismissal (G. R. No. L-14689) which this Court decided on July 26, 1960. In view of that decision this Court issued a resolution in the present case on April 25, 1967, as follows:

"In L-19373 (Felix Asejo, et al. vs. Adriano Chua Joy, etc. et al.) considering that in CIR Case No. 546-MC, later numbered 547-MC, appealed to this Court and docketed as G. R. No. L-14689 (General Maritime Stevedores' Union, etc. vs. South Sea Shipping Lines, et al.), this Court in its decision promulgated July 26, 1960, ordered that a certification election be held to determine which of the two contending unions involved in this case should be the proper bargaining representative of the employees of the said shipping line; and

considering further that such certification election may have already rendered the issues in the instant case moot: the parties are hereby required to show cause within fifteen (15) days from receipt hereof why the petition should not be dismissed."

Both parties duly received notice of the resolution, but until now have failed to show cause as directed therein.

WHEREFORE, the petition is hereby dismissed, without pronouncement as to costs.

Reyes, JBL, Bengzon, JP, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

Concepcion, C.J., and Dizon, J., took no part.

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