

**ASSOCIATED LABOR UNION, DEMOCRITO T. MENDOZA, AND
CECILIO T. SENO, PETITIONERS, VS. HONORABLE AMADOR E.
GOMEZ, AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE
OF CEBU, 14TH JU...**

G.R. No. L-27743. March 28, 1980

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

The decisive question in this certiorari proceeding is one of jurisdiction. The competence of then respondent Judge, Amador E. Gomez, now retired, to issue a writ of preliminary injunction in a labor dispute considering that there was then pending in the now defunct Court of Industrial Relations an unfair labor practice case filed by petitioner Associated Labor Union[1] against the employer, Mactan Lighterage and Trucking Corporation, was assailed. One of the customers being served by such corporation was private respondent General Milling Corporation. As picketing was then resorted to in the course of the strike, it was alleged in the petition that private respondent, "mutually conniving with the said Lighterage Corporation, also unduly interfered with the said picketing" by acts of harrassment, coercion and intimidation.[2] Mention was likewise made therein of the existence of a civil case filed by private respondent against petitioner labor union as well as the co-petitioners Mendoza and Seno. To repeat, it was the assumption of jurisdiction of a labor dispute intertwined with a pending unfair labor practice case with the then Court of Industrial Relations that was sought to be nullified by this petition for certiorari with a prayer for preliminary injunction filed on July 6, 1967. In a resolution of this Court soon after the filing of the petition, respondents were required to answer, and the prayer for a writ of preliminary injunction was granted upon the posting of a bond in the amount of One Thousand Pesos.[3] The answer was duly filed.[4] Thereafter, a memorandum in lieu of oral argument was filed by private respondent.[5]

As will hereafter be shown, the petition is impressed with merit.

1. To lend plausibility to the assumption of jurisdiction by respondent Judge, stress is laid on the fact that it was not the employer, Mactan Lighterage and Trucking Corporation, but its customer, respondent General Milling Company, that filed the complaint for injunction. It is undeniable, however, that there was in existence a labor dispute arising from an unfair labor practice taken cognizance of by the then existing Court of Industrial Relations.[6] The remedy sought should have been obtained from that tribunal then rather than a Court of First Instance. That has been the settled law since *Associated Labor Union v. Gomez*,[7] where the exclusive jurisdiction of the then existing Court of Industrial Relations was emphasized. In the language of the ponente, Justice Sanchez: "Nor will Sugeco's averment below that it suffers damages by reason of the strike, work to defeat the CIR's jurisdiction to hear the unfair labor practice charge. Reason for this is that the right to damages 'would still have to depend on the evidence in the unfair labor practice case' – in the CIR. To hold otherwise is to sanction split jurisdiction – which is obnoxious to the orderly administration of justice." [8] The following subsequent cases speak to the same effect: *Progressive Labor Association v. Atlas Consolidated Mining and Development Corporation*,[9] *Leoquinco v. Canada Dry Bottling Co.*,[10] *Associated Labor Union v. Cruz*,[11] *Goodrich*

Employees Association v. Flores,[12] Holganza v. Apostol,[13] Cyphil Employees Association-NATU v. Pharmaceutical Industries Inc.,[14] and Prudon v. Court of First Instance.[15]

2. It does not admit of doubt that, as noted in the petition, in addition to the failure to observe the mandatory requirements for the issuance of a preliminary injunction under the Industrial Peace Act,[16] the orders complained of were fatally defective, suffering as it did from the infirmity that peaceful picketing was enjoined. That would be violative of the freedom of speech clause of the Constitution. Paflu v. Barot,[17] a 1956 decision, was cited by petitioner. Actually, such a doctrine dates back to Mortera v. Court of Industrial Relations,[18] decided in 1947. Since then, a number of cases affirming such principle has been rendered by this tribunal, the latest of which is the aforesaid Cyphil Employees Association NATU v. Pharmaceutical Industries Inc. decision.[19]

WHEREFORE, the writ of certiorari is granted, the orders of respondent Judge dated January 23 and 24, 1967 are nullified and declared void, and the preliminary injunction issued on July 11, 1967 is hereby made permanent. No costs.

Barredo, Antonio, Aquino, Concepcion, Jr., and De Castro, JJ., concur.
Abad Santos J., on leave.

[1] Democrito T. Mendoza and Cecilio T. Seno are the co-petitioners.

[2] Petition, par. 11.

[3] Rollo, 62.

[4] Ibid, 66-81.

[5] Ibid, 116-130.

[6] Petition, Annex E.

[7] L-25999, February 9, 1967, 19 SCRA 304.

[8] Ibid, 309.

[9] L-27585, May 29, 1970, 33 SCRA 349.

[10] L-28621, February 22, 1971, 37 SCRA 535.

[11] L-28978, September 22, 1971, 41 SCRA 12.

[12] L-30211, October 5, 1976, 73 SCRA 297.

[13] L-32953, March 31, 1977, 76 SCRA 190.

[14] L-33520, May 26, 1977, 77 SCRA 135.

[15] L-36937, August 23, 1978, 84 SCRA 675.

[16] Republic Act 875 (1953).

[17] 99 Phil. 1008.

[18] 79 Phil. 345.

[19] Cf. De Leon v. National Labor Union, 100 Phil. 789 (1957); Malayang Manggagawa sa Esso v. Esso

Standard Eastern, Inc., L-24224, July 30, 1965, 14 SCRA 801; Security Bank Employees Union v. Security Bank & Trust Co., L-28536, April 30, 1968, 23 SCRA 503; Associated Labor Union v. Borromeo, L-26461, November 27, 1968, 26 SCRA 88, Philippine Association of Free Labor Unions v. Cloribel, L-25878, March 28, 1969, 27 SCRA 465; The Insular Life Assurance Co., Ltd. Employees Association v. The Insular Life Assurance Co., Ltd., L-25291, January 30, 1971, 37 SCRA 244; New Frontier Supermarket Labor Union v. Erieta, L-30826, April 30, 1974, 56 SCRA 785; Feati University Faculty Club v. Feati University, L-31503, August 15, 1974, 58 SCRA 395; Litton Mills Workers Union v. Reyes, L-23745, January 22, 1975, 62 SCRA 98.

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