

CONTINENTAL MANUFACTURING EMPLOYEES ASSOCIATION, EMMANUEL VEGA, POMPEYO ORTEGA, MANUEL PANGILINAN AND FLORENTINO RAMIREZ, PETITIONERS, VS. THE HON. COURT OF INDUSTRIAL RELATIONS...

G.R. No. L-26849. September 30, 1970

Ponente: FERNANDO, J.

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FERNANDO, J.:

The correctness of the resolution of October 17, 1966 of the respondent Court of Industrial Relations en bane granting a motion for reconsideration filed by private respondents to set aside a decision of its associate judge of October 19, 1965 finding private respondents guilty of unfair labor practice and ordering them to cease and desist from committing further such acts as well as to reinstate petitioners Emmanuel Vega, Manuel Pangilinan and Florentino Ramirez, with back wages from the date they were dismissed up to and until they were actually reinstated and to pay petitioner Pompeyo Ortega back wages from the date of dismissal up to and until May 23, 1963 when he found a substantially equivalent employment, such resolution en bane dismissing the aforesaid unfair labor practice case, is disputed both on procedural and substantive grounds in this petition for review. The assailed resolution is challenged on the ground that it was issued after the decision set aside had become final by the lapse of five days before a motion for reconsideration was filed, with the equally fatal infirmity of the arguments in support thereof not being filed until after ten days. The substantive issue raised is premised on the failure of the resolution of the respondent Court meeting the test of substantial evidence as a criterion of its validity. Finding meritorious the procedural point raised by petitioners, there is no need for further inquiry into the alleged absence of substantial evidence to justify the resolution. We find for petitioners.

It is undisputed that a complaint for unfair labor practice by petitioners against respondent Continental Manufacturing Corporation, its President, Rufino Deeunhong and its Comptroller, Eliseo C. Quiazon, was filed on March 25, 1963.[1] After the answer duly filed and the hearing had, a decision was rendered by Associate Judge Amando C. Bugayong of respondent Court of Industrial Relations dated October 19, 1965, its dispositive portion ordering private respondents "(a) To cease and desist from committing further unfair labor practice acts especially those described in the complaint; (b) To reinstate complainants Emmanuel Vega, Manuel Pangilinan and Florentino Ramirez to their former positions or any other substantially equivalent positions in the company with back wages from the date they were dismissed up to and until they are actually reinstated; (c) To pay complainant Pompeyo Ortega back wages from the date he was dismissed up to and until May 23, 1963 when he found a substantially equivalent employment with another company; * * *"[2]

Then came an urgent motion for extension to file a motion for reconsideration dated November 10, 1965. It was therein alleged that on November 5, 1965, the decision of October 19, 1965 was received on counsel's behalf by a certain Victoriano Padlan who was not employed in any capacity in his office, but there was no denial that it was served in his law office. Moreover, his inability to be advised of such decision was due to the fact that on the very same day he was in the province of Ilocos Norte and did not come back to Manila until November 10, 1965 at

10:30 in the morning. He therefore had time to file a motion for reconsideration, but instead of doing so, what he did was to ask for a period of another five days within which to do so.[3] On the very same day, Associate Judge Bugayong, following the "no-extension policy of respondent Court in numerous cases," denied such motion for reconsideration.[4] In a one-paragraph pleading dated November 10, 1965, but as shown by its verification subscribed and sworn to, only on the twelfth day of that month, the former counsel for respondents filed his motion for reconsideration.[5] The reasoned arguments in support thereof were not submitted until November 19, 1965, as admitted in the brief for respondents-appellees.[6]

Under the circumstances, petitioners filed on February 1, 1966 a motion for execution, the decision of October 19, 1965 having attained the status of finality.[7] As noted in their brief, 93 days had elapsed from November 10, 1965 when the period of filing of the motion for reconsideration had expired.[8] Seventeen days thereafter, on February 18, 1966, an unverified motion to admit and consider as having been filed on time their motion for reconsideration was filed by respondents, this pleading coming after 110 days from the expiration of the period for the filing thereof. Associate Judge Bugayong, after a period of one month, on March 18, 1966, unaccountably granted such motion, through Associate Judge Emiliano C. Tabigne, with two dissents. The undisputed facts clearly demonstrate therefore that under such circumstances the decision of respondent Court through Judge Bugayong had already become final.

So our decisions indicate.[9] In the latest one, *Elizalde & Co., Inc. v. Court of Industrial Relations*, [10] the opinion of Justice Sanchez contains the following: "Section 15 of the CIR Rules requires that one who seeks to reconsider the judgment of the trial judge must do so within five (5) days from the date on which he received notice of the decision, subject of the motion. Next follows Section 16 which says that [if the arguments can not be submitted simultaneously with such motion] 'the movant shall file the same within ten (10) days from the date of the filing of his motion for reconsideration.' Section 17 of the same rules admonishes a movant that '[f]ailure to observe the above-specified periods shall be sufficient cause for dismissal of the motion for reconsideration or striking out of the answer and/or the supporting arguments, as the case may be.' "[11]

Then came this portion: "The teaching in *Luzon Stevedoring Co., Inc. vs. Court of Industrial Relations*, is that where the motion for reconsideration is denied upon the ground that the arguments in support thereof were filed out of time, the order or decision subject of the motion becomes 'final and unappealable.' "[12] Necessarily, the conclusion was to this effect: "We find no difficulty in applying the foregoing rules and pronouncements of this Court in the case before us. On August 6, petitioner received a copy of the judgment of Judge Arsenio I. Martinez aforesaid. Petitioner's motion to reconsider—without arguments in support thereof—of August 12 was filed on time. For, August 11, the end of the five-day reglementary period to file a motion for reconsideration, was a Sunday. But, actually, the written arguments in support of the said motion were submitted to the court on August 27. The period from August 12 to August 27, is a space of fifteen (15) days. Surely enough, said arguments were filed out of time—five (5) days late. And the judgment had become final." [13]

There is thus no need to inquire into the alleged weakness of the resolution under review insofar as it disregards the substantial evidence rule. It is enough for present purposes to indicate that the decision reached by us applying strictly the above procedural principle is more than warranted as the appealed resolution of respondent Court of Industrial Relations would justify a dismissal by management, allegedly on the ground of pursuing a retrenchment policy in view of economic losses, with the persons singled out for such harsh and summary treatment being the officials of petitioner Union. It would thus appear that such a move, the effect of which was to weaken labor, manifested a failure to abide by the clear command of the Industrial Peace Act as to the respect to be accorded the fundamental right to self-organization. Under the above circumstances, the original decision finding an unfair labor practice, cannot be said to be devoid of merit, especially so when the resolution en bane was by a divided

Court, two members dissenting.

WHEREFORE, the resolution of respondent Court of October 17, 1966 is reversed and set aside, and the decision of its associate Judge Amando C. Bugayong of October 19, 1965 reinstated and given full force and effect. Costs against private respondents.

Reyes J.B.L., Acting C.J., Dizon, Makalintal, Zaldivar, Ruiz Castro, Teehcmkee. Barredo and Makasiar, JJ., concur.

Concepcion, C.J., and Villamor, J., are on official leave.

[1] Petition, Annex A.

[2] Ibid., Annex C.

[3] Ibid., Annex D.

[4] Ibid., Annex E.

[5] Ibid., Annex F.

[6] Petition, Annex G, Brief for Respondents-Appellees, p. 4.

[7] Ibid., Annex I.

[8] Petition, Annex I, Brief for Petitioners-Appellants, p. 17.

[9] Pangasinan Employees, Laborers and Tenants Assn. v. Martinez, 108 Phil. 89 (1960); Luzon Stevedoring v. Court of Industrial Relations, L-16382, July 26, 1963, 8 SCRA 447; Elizalde & Co., Inc. v. Court of Industrial Relations, L-21942, Sept. 23 1968, 25 SCRA 58.

[10] L-21942, Sept. 23, 1968, 25 SCRA 58.

[11] Ibid., p. 61.

[12] Ibid., p. 62.

[13] Ibid.

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