

AURELTA ABO, ET AL., PLAINTIFFS AND APPELLANTS, VS. PHILAME (KG) EMPLOYEES & WORKERS UNION, PHILIPPINE TRANSPORT & GENERAL WORKERS ORGANIZATION, ET., AL., DEFENDANTS AND APPELLEES.

G.R. No. L-19912. January 30, 1965

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from the decision of the Court of First Instance of Rizal dismissing the complaint in Civil Case No. 6637 on the ground that it has no jurisdiction over the subject matter.

Plaintiffs are employees of the Philippine American Embroideries, Inc. On May 11, 1961, they filed a complaint in the Court of First Instance of Rizal, alleging:

"8. That from March 24, 1961 up to May 6, 1961, the individual defendants, acting as officers and/or members of the defendant labor unions and in their own individual capacity, by concerted action and with their full knowledge, approval and consent, prevented the plaintiffs by the use of force, violence and intimidation from entering the premises of the KG Department of the Philippine Embroideries, Inc."

Plaintiffs asked that defendants be ordered to pay P,410.75 for wages which they allegedly failed to earn; P5,000 for moral damages; P5,000 for exemplary damages and P1 ,000. for attorney's fees.

Instead of answering the complaint, the defendants presented a motion to dismiss on the ground that the court had no jurisdiction; that the labor dispute which was the cause of the complaint had already been amicably settled, and that the subject of the complaint was also the subject of an unfair labor practice case then pending in the Court of industrial Relations where plaintiffs should instead have intervened.

In an order dated November 2, 1961, the lower court, as indicated above, dismissed the complaint on the ground of lack of jurisdiction and it is now contended by the plaintiffs that in so doing the court erred. Hence, this appeal.

According to the lower court, the acts described in the complaint constituted unfair labor practice, jurisdiction over which is vested in the Court of Industrial Relations.

In support of its order, the court cited Section 4(b) (1) and Section 24 of the Industrial Peace Act (Republic Act No. 875). Section 4(b) (1) states:

"(1), To restrain or coerce employees in the exercise of their rights under section three, provided that this paragraph shall not impair the right of a labor organization to prescribe its own rules with respect to the acquisition or retention of membership therein?"

Section 3, which is referred to, provides:

"'Employees' Right to Self-Organization..—Employees shall have the right to self-organization and to form, join

or assist labor organizations of their own choosing for the purpose of collective bargaining through representatives of their own choosing and to engage in concerted activities for the purpose of collective bargaining and other mutual aid or protection. * * *"

In this appeal, plaintiffs contend that these provisions cover cases of union coercion of employees in forming, joining or assisting labor organizations and since no right of self organization was alleged in the complaint, it was a mistake for the court to hold that the acts described in the complaint amounted to an unfair labor practice over which the Court of Industrial Relations has exclusive jurisdiction.

It should be noted in this connection that Section 3 of our Industrial Peace Act was taken from Section 7 of the Wagner Act. This Wagner Act provision was amended in 1947 by the Taft-Bartley Act, so that, as it stands, Section 7 reads:

"Employees shall have the right to self organization, to form, join, or assist labor organizations to bargain collectively through representatives of their own choosing, and to engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection, and shall also have the right to refrain from or all of such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in section 8(a)(3)." (Italics supplied)

The underscored portions represent the amendment.

According to Teller, the amendment as to refraining from joining activities is nothing more than a statement of what the National Labor Relations Board should have held under the original law. (Labor Disputes and Collective Bargaining, 1950 supp. 79)

According to Rothenberg:

"Although the latter right of abstention from union affiliation was not contained in the original Act and was newly introduced in the legislative form by the amended Act, this right was freely recognized by the courts prior to the enactment of the amended Act. It has long been hold that in making their choice, whatever it be, whether to join an existing affiliated or unaffiliated union, or to form a new union, or in choosing to abstain from joining or aiding any union, the employees are entitled to the full protection of the Act." Labor Relations 353, citing cases)

It should be noted that the quoted paragraph 8 of the complaint does not state that the alleged acts of violence were committed by the defendants in connection with a labor dispute. The lower court seems to have reached the conclusion that the acts described fell within the prohibition of Section 4(b) (1) only because it considered the union evidence tending to prove the existence of a labor dispute at the time of the alleged coercion and intimidation.

On the question of whether jurisdiction should be determined on the basis of the allegations of the complaint alone, or whether the allegations can be read in the light of the evidence of the other party, it was held that the jurisdiction of a court should be determined on the basis of the allegations of the complaint. (Campos Rueda Corp. vs. Bautista, G. R. No. L-18453, September 29, 1962).

In another case (Administrator of Hacienda Luisita Instate vs. Alberto, G. R. No. L-12133, October 31, 1958) it was held by Justice Bengzon (now Chief Justice) that the consideration of a motion to dismiss on the ground of lack of jurisdiction may not be postponed in the hope that the evidence may yield othef qualifying data which would bring the case under the court's jurisdiction.

The lower court also cited the following provisions of the Industrial Peace Act to support its order of dismissal:

"Sec. 24. * * * No suit, fiction or other proceeding shall be maintained in any court against a labor organization or any officer or member thereof for any act done by or on behalf of such organization in furtherance of an industrial dispute to which it is a party on the ground only that such act induces some other person to break a contract of employment or that it is in restraint of trade or interferes with the trade, business or employment of some other person or with the right of some other person to dispose of his capital or labor."

A careful reading of the above-quoted provision of law will readily show that it can not be invoked in this case because the fact that the individual defendants-appellees are officers and/or members of labor unions does not necessarily mean that all their acts are made in furtherance of an industrial dispute. It is not evident from the complaint that the acts charged against the affendants-appellees are in furtherance of an industrial dispute.

In view of the foregoing considerations, the judgment of the lower court is hereby reversed and the record of case be remanded to the court of origin for further Proceedings. Costs against the defendants-appellees.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Makalinlal, Bengzon, J. P. and Zaldivar, JJ., concur.

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