

CITIZENS' LEAGUE OF FREEWORERS AND/OR BALBINO EPIS, NICOLAS ROJO, ET AL., PETITIONERS, VS. HON. MACAPANTON ABBAS, JUDGE OF THE COURT OF FIRST INSTANCE OF DAVAO AND TEOFILO GERO...*G.R. No. L-21212. September 23, 1966*

Ponente: DIZON, J.

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Petition for certiorari with a prayer for the issuance of a writ of preliminary injunction filed by the Citizens' League of Freeworkers, a legitimate labor organization, - hereinafter referred to as the Union - and its members against the spouses Teofilo Geronimo and Emerita Mendez, and the Hon. Macapanton Abbas, as judge of the Court of First Instance of Davao. Its purpose is to set aside the writ of preliminary injunction issued by the latter in Civil Case No. 3966 and restrain him from proceeding with the case, on the ground that the controversy involves a labor dispute and is, therefore, within the exclusive jurisdiction of the Court of Industrial Relations.

It appears that on March 11, 1963, respondents-spouses, owners and operators of auto-calesas in Davao City, filed a complaint with the Court of First Instance of Davao (Civil Case No. 3966) to restrain the Union and its members, who were drivers of the spouses in said business, from interfering with its operation, from committing certain acts complained of in connection therewith, and to recover damages. The complaint alleged that the defendants named therein used to lease the auto calesas of the spouses on a daily rental basis; that, unable to get the spouses to recognize said defendants as employees instead of lessees and to bargain with it on that basis, the Union declared a strike on February 20, 1963 and since then had paralyzed plaintiffs' business operations through threats, intimidation and violence. The complaint also prayed for the issuance of a writ of preliminary injunction ex-parte restraining defendants therein from committing said acts of violence and intimidation during the pendency of the case.

On March 11, 1963 the respondent judge granted the writ prayed for, while deferring action on petitioners' motion to dissolve said writ to March 20 of the same year.

Meanwhile, on March 12, 1963, petitioners filed a complaint for unfair labor practice against the respondents-spouses with the Court of Industrial Relations on the ground, among others, of the latter's refusal to bargain with them.

On March 18, 1963, petitioners filed a motion to declare the writ of preliminary injunction void on the ground that the same had expired by virtue of Section 9(d) of Republic Act 875. In his order of March 21, 1963, however, the respondent judge denied said motion on the ground that there was no employer-employee relationship between respondents-spouses and the individual petitioners herein and that, consequently, the Rules of Court and not Republic Act No. 875 applied to the matter of injunction. Thereupon the petition under consideration was filed.

In the case of *Isabelo Doce vs. Workmen's Compensation Commission et al.* (G. R. No. L-9417, December 22,

1958), upon a similar if not an altogether identical set of facts, We held:

"This case falls squarely within our ruling in *National Labor Union v. Dinglasan*, 52 O. G., No. 4, 1933, wherein this Court held that a driver of a jeep who operates the same under the boundary system is considered an employee within the meaning of the law and as such the case comes under the jurisdiction of the Court of Industrial Relations. In that case, Benedicto Dinglasan was the owner and operator of TPU jeepneys which were driven by petitioner under verbal contracts that they will pay P7.50 for 10 hours use under the so-called 'boundary system.' The drivers did not receive salaries or wages from the owner. Their day's earnings were the excess over the P7.50 they paid for the use of the jeepneys. In the event that they did not earn more, the owner did not have to pay them anything. In holding that the employer-employee relationship existed between the owner of the jeepneys and the drivers even if the latter worked under the boundary system, this Court said:

'The only features that would make the relationship of lessor and lessee between the respondent, owner of the jeeps, and the drivers, members of the petitioner union, are the fact that he does not pay them any fixed wage but their compensation is the excess of the total amount of fares earned or collected by them over and above the amount of P7.50 which they agreed to pay to the respondent, and the fact that the gasoline burned by the jeeps is for the account of the drivers. These two features are not, however, sufficient to withdraw the relationship, between them from that of employer-employee, because the estimated earnings for fares must be over and above the amount they agreed to pay to the respondent for a ten-hour shift or ten-hour a day operation of the jeeps. Not having any interest in the business because they did not invest anything in the acquisition of the jeeps and did not participate in the management thereof, their service as drivers of the jeeps being their only contribution to the business, the relationship of lessor and lessee cannot be sustained.'"

Even assuming, arguendo, that the respondent court had jurisdiction to issue the abovementioned writ of preliminary injunction in Civil Case No. 3966 at the time it was issued, We are of the opinion, and so hold, that it erred in denying petitioners' motion to set aside said writ upon expiration of the period of thirty days from its issuance, upon the wrong ground that there was no labor dispute between the parties and that, therefore, the provisions of Republic Act No. 875 did not apply to the case. As stated heretofore, there was a labor dispute between the parties from the beginning.

Moreover, upon the filing of the unfair labor practice case on March 12, 1963, the Court of Industrial Relations acquired complete jurisdiction over the labor dispute and the least that could be done in Civil Case No. 3966 is either to dismiss it or suspend proceedings therein until the final resolution of the former.

WHEREFORE, judgment is hereby rendered setting aside the writ of preliminary injunction issued by the respondent judge in Civil Case No. 3966 of the Court of First Instance of Davao, with costs.

Concepcion, C.J., Reyes, J.B.L., Barrera, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, and Ruiz Castro, JJ., concur.

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