

**PHILIPPINE BLOOMING MILLS EMPLOYEES ORGANIZATION,
NICANOR TOLENTINO, FLORENCIO PADRIGANO, RUFINO ROXAS,
MARIANO DE LEON, ASENCION PACIENTE, BONIFACIO VACUNA,
BENJAMIN PAGCU AND ...**

G.R. No. L-31195. June 05, 1973

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

The petitioner Philippine Blooming Mills Employees Organization (hereinafter referred to as PBMEO) is a legitimate labor union composed of the employees of the respondent Philippine Blooming Mills Co., Inc., and petitioners Nicanor Tolentino, Florencio Padrigano, Rufino Roxas, Mariano de Leon, Asencion Paciente, Bonifacio Vacuna, Benjamin Pagcu and Rodulfo Munsod are officers and members of the petitioner Union.

Petitioners claim that on March 1, 1969, they decided to stage a mass demonstration at Malacañang on March 4, 1969, in protest against alleged abuses of the Pasig police, to be participated in by the workers in the first shift (from 6 A.M. to 2 P.M.) as well as those in the regular second and third shifts (from 7 A.M. to 4 P.M. and from 8 A.M. to 5 P.M., respectively); and that they informed the respondent Company of their proposed demonstration.

The questioned order dated September 15, 1969, of Associate Judge Joaquin M. Salvador of the respondent Court reproduced the following stipulation of facts of the parties —

"3. That on March 2, 1969 complainant company learned of the projected mass demonstration at Malacañang in protest against alleged abuses of the Pasig Police Department to be participated by the first shift (6:00 AM - 2:00 PM) workers as well as those working in the regular shifts (7:00 AM to 4:00 PM and 8:00 AM to 5:00 PM) in the morning of March 4, 1969;

"4. That a meeting was called by the Company on March 3, 1969 at about 11:00 A.M. at the Company's canteen, and those present were: for the Company: (1) Mr. Arthur L. Ang (2) Atty. Cesareo S. de Leon, Jr., (3) and all department and section heads. For the PBMEO; (1) Florencio Padrigano, (2) Rufino Roxas, (3) Mariano de Leon, (4) Asencion Paciente, (5) Bonifacio Vacuna and (6) Benjamin Pagcu;

"5. That the Company asked the union panel to confirm or deny said projected mass demonstration at Malacañang on March 4, 1969. PBMEO, thru Benjamin Pagcu who acted as spokesman of the union panel, confirmed the planned demonstration and stated that the demonstration or rally cannot be cancelled because it has already been agreed upon in the meeting. Pagcu explained further that the demonstration has nothing to do with the Company because the union has no quarrel or dispute with Management;

"6. That Management, thru Atty. C.S. de Leon, Company personnel manager, informed PBMEO that the demonstration is an inalienable right of the union guaranteed by the Constitution but emphasized, however, that any demonstration for that matter should not unduly prejudice the normal operation of the Company. For which reason, the Company, thru Atty. C.S. de Leon, warned the PBMEO representatives that workers who belong to the first and regular shifts, who without previous leave of absence approved by the Company,

particularly the officers present who are the organizers of the demonstration, who shall fail to report for work the following morning (March 4, 1969) shall be dismissed, because such failure is a violation of the existing CBA and, therefore, would be amounting to an illegal strike;

"7. That at about 5:00 P.M. on March 3, 1969, another meeting was convoked. Company represented by Atty. C.S. de Leon, Jr. The Union panel was composed of: Nicanor Tolentino, Rodolfo Munsod, Benjamin Pagcu and Florencio Padrigano. In this afternoon meeting of March 3, 1969, Company reiterated and appealed to the PBMEIO representatives that while all workers may join the Malacañang demonstration, the workers for the first and regular shift of March 4, 1969 should be excused from joining the demonstration and should report for work; and thus utilize the workers in the 2nd and 3rd shifts in order not to violate the provisions of the CBA, particularly Article XXIV: 'NO LOCKOUT - NO STRIKE'. All those who will not follow this warning of the Company shall be dismissed; De Leon reiterated the Company's warning that the officers shall be primarily liable being the organizers of the mass demonstration. The union panel countered that it was rather too late to change their plans inasmuch as the Malacañang demonstration will be held the following morning; and

"8. That a certain Mr. Wilfredo Ariston, adviser of PBMEIO sent a cablegram to the Company which was received 9:50 A.M., March 4, 1969, the contents of which are as follows: 'REITERATING REQUEST EXCUSE DAY SHIFT EMPLOYEES JOINING DEMONSTRATION MARCH 4, 1969.'" (Pars. 3-8, Annex "F", pp. 42-43, rec.).

Because the petitioners and their members numbering about 400 proceeded with the demonstration despite the pleas of the respondent Company that the first shift workers should not be required to participate in the demonstration and that the workers in the second and third shifts should be utilized for the demonstration from 6 A.M. to 2 P.M. on March 4, 1969, respondent Company filed on March 4, 1969, with the respondent Court, a charge against petitioners and other employees who composed the first shift, charging them with a "violation of Section 4(a)-6 in relation to Sections 13 and 14, as well as Section 15, all of Republic Act No. 875, and of the CBA providing for 'No-Strike and No-Lockout.'" (Annex "A", pp. 19-20, rec.). The charge was accompanied by the joint affidavit of Arthur L. Ang and Cesareo de Leon, Jr. (Annex "B", pp. 21-24, rec.). Thereafter, a corresponding complaint was filed, dated April 18, 1969, by Acting Chief Prosecutor Antonio T. Tirona and Acting Prosecutor Linda P. Ilagan (Annex "C", pp. 25-30, rec.).

In their answer, dated May 9, 1969, herein petitioners claim that they did not violate the existing CBA because they gave the respondent Company prior notice of the mass demonstration on March 4, 1969; that the said mass demonstration was a valid exercise of their constitutional freedom of speech against the alleged abuses of some Pasig policemen; and that their mass demonstration was not a declaration of strike because it was not directed against the respondent firm (Annex "D", pp. 31-34, rec.).

After considering the aforementioned stipulation of facts submitted by the parties, Judge Joaquin M. Salvador, in an order dated September 15, 1969, found herein petitioner PBMEIO guilty of bargaining in bad faith and herein petitioners Florencio Padrigano, Rufino Roxas, Mariano de Leon, Asencion Paciente, Bonifacio Vacuna, Benjamin Pagcu, Nicanor Tolentino and Rodolfo Munsod as directly responsible for perpetrating the said unfair labor practice and were, as a consequence, considered to have lost their status as employees of the respondent Company (Annex "F", pp. 42-56, rec.).

Herein petitioners claim that they received on September 23, 1969, the aforesaid order (p. 11, rec.), and that they filed on September 29, 1969, because September 28, 1969 fell on Sunday (p. 59, rec.), a motion for reconsideration of said order dated September 15, 1969, on the ground that it is contrary to law and the evidence, as well as asked for ten (10) days within which to file their arguments pursuant to Sections 15, 16 and 17 of the Rules of the CIR, as amended (Annex "G", pp. 57-60, rec.).

In its opposition dated October 7, 1969, filed on October 11, 1969 (p. 63, rec.), respondent Company averred that herein petitioners received on September 22, 1969, the order dated September 17 (should be September 15), 1969; that under Section 15 of the amended Rules of the Court of Industrial Relations, herein petitioners had five (5) days from September 22, 1969 or until September 27, 1969, within which to file their motion for reconsideration; and that because their motion for reconsideration was two (2) days late, it should be accordingly dismissed, invoking *Bien vs. Castillo*,^[1] which held among others, that a motion for extension of the five-day period for the filing of a motion for reconsideration should be filed before the said five-day period elapses (Annex "M", pp. 61-64, rec.).

Subsequently, herein petitioners filed on October 14, 1969 their written arguments dated October 11, 1969, in support of their motion for reconsideration (Annex "I", pp. 65-73, rec.).

In a resolution dated October 9, 1969, the respondent Court en banc dismissed the motion for reconsideration of herein petitioners for being pro forma as it was filed beyond the reglementary period prescribed by its Rules (Annex "J", pp. 74-75, rec.), which herein petitioners received on October 28, 1969 (pp. 12 & 76, rec.).

At the bottom of the notice of the order dated October 9, 1969, which was released on October 24, 1969 and addressed to the counsels of the parties (pp. 75-76, rec.), appear the requirements of Sections 15, 16 and 17, as amended, of the Rules of the Court of Industrial Relations, that a motion for reconsideration shall be filed within five (5) days from receipt of its decision or order and that an appeal from the decision, resolution or order of the C.I.R., sitting en banc, shall be perfected within ten (10) days from receipt thereof (p. 76, rec.).

On October 31, 1969, herein petitioners filed with the respondent court a petition for relief from the order dated October 9, 1969, on the ground that their failure to file their motion for reconsideration on time was due to excusable negligence and honest mistake committed by the president of the petitioner Union and of the office clerk of their counsel, attaching thereto the affidavits of the said president and clerk (Annexes "K", "K-1" and "K-2", rec.).

Without waiting for any resolution on their petition for relief from the order dated October 9, 1969, herein petitioners filed on November 3, 1969, with the Supreme Court, a notice of appeal (Annex "L", pp. 88-89, rec.).

I

There is need of briefly restating basic concepts and principles which underlie the issues posed by the case at bar.

(1) In a democracy, the preservation and enhancement of the dignity and worth of the human personality is the central core as well as the cardinal article of faith of our civilization. The inviolable character of man as an individual must be "protected to the largest possible extent in his thoughts and in his beliefs as the citadel of his person."^[2]

(2) The Bill of Rights is designed to preserve the ideals of liberty, equality and security "against the assaults of opportunism, the expediency of the passing hour, the erosion of small encroachments, and the scorn and derision of those who have no patience with general principles."^[3]

In the pithy language of Mr. Justice Robert Jackson, the purpose of the Bill of Rights is to withdraw "certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, and to establish them as legal principles to be applied by the courts. One's rights to life, liberty and property, to free speech, or free press, freedom of worship and assembly, and other fundamental rights may not be submitted to a vote; they depend on the outcome of no elections."^[4] Laski proclaimed that "the happiness of the individual, not the well-being of the State, was the criterion by which its behaviour was to be judged. His interests, not its

power, set the limits to the authority it was entitled to exercise." [5]

(3) The freedoms of expression and of assembly as well as the right to petition are included among the immunities reserved by the sovereign people, in the rhetorical aphorism of Justice Holmes, to protect the ideas that we abhor or hate more than the ideas we cherish, or as Socrates insinuated, not only to protect the minority who want to talk, but also to benefit the majority who refuse to listen. [6] And as Justice Douglas cogently stresses it, the liberties of one are the liberties of all; and the liberties of one are not safe unless the liberties of all are protected. [7]

(4) The rights of free expression, free assembly and petition, are not only civil rights but also political rights essential to man's enjoyment of his life, to his happiness and to his full and complete fulfillment. Thru these freedoms the citizens can participate not merely in the periodic establishment of the government through their suffrage but also in the administration of public affairs as well as in the discipline of abusive public officers. The citizen is accorded these rights so that he can appeal to the appropriate governmental officers or agencies for redress and protection as well as for the imposition of the lawful sanctions on erring public officers and employees.

(5) While the Bill of Rights also protects property rights, the primacy of human rights over property rights is recognized. [8] Because these freedoms are "delicate and vulnerable, as well as supremely precious in our society" and the "threat of sanctions may deter their exercise almost as potently as the actual application of sanctions," they "need breathing space to survive," permitting government regulation only "with narrow specificity." [9]

Property and property rights can be lost thru prescription; but human rights are imprescriptible. If human rights are extinguished by the passage of time, then the Bill of Rights is a useless attempt to limit the power of government and ceases to be an efficacious shield against the tyranny of officials, of majorities, of the influential and powerful, and of oligarchs - political, economic or otherwise.

In the hierarchy of civil liberties, the rights of free expression and of assembly occupy a preferred position as they are essential to the preservation and vitality of our civil and political institutions; [10] and such priority "gives these liberties the sanctity and the sanction not permitting dubious intrusions." [11]

The superiority of these freedoms over property rights is underscored by the fact that a mere reasonable or rational relation between the means employed by the law and its object or purpose — that the law is neither arbitrary nor discriminatory nor oppressive — would suffice to validate a law which restricts or impairs property rights. [12] On the other hand, a constitutional or valid infringement of human rights requires a more stringent criterion, namely existence of a grave and immediate danger of a substantive evil which the State has the right to prevent. So it has been stressed in the main opinion of Mr. Justice Fernando in *Gonzales vs. Comelec* and reiterated by the writer of the opinion in *Imbong vs. Ferrer*. [13] It should be added that Mr. Justice Barredo in *Gonzales vs. Comelec*, supra, like Justices Douglas, Black and Goldberg in *N.Y. Times Co. vs. Sullivan*, [14] believes that the freedoms of speech and of the press as well as of peaceful assembly and of petition for redress of grievances are absolute when directed against public officials or "when exercised in relation to our right to choose the men and women by whom we shall be governed," [15] even as Mr. Justice Castro relies on the balancing-of-interests test. [16] Chief Justice Vinson is partial to the improbable danger rule formulated by Chief Judge Learned Hand, viz. — whether the gravity of the evil, discounted by its improbability, justifies such invasion of free expression as is necessary to avoid the danger. [17]

II

The respondent Court of Industrial Relations, after opining that the mass demonstration was not a declaration of strike, concluded that by their "concerted act and the occurrence of a temporary stoppage of work," herein petitioners are guilty of bargaining in bad faith and hence violated the collective bargaining agreement with private respondent Philippine Blooming Mills Co., Inc.. Set against and tested by the foregoing principles governing a democratic society, such a conclusion cannot be sustained. The demonstration held by petitioners on March 4, 1969 before Malacañang was against alleged abuses of some Pasig policemen, not against their employer, herein private respondent firm. Said demonstration was purely and completely an exercise of their freedom of expression in general and of their right of assembly and of petition for redress of grievances in particular before the appropriate governmental agency, the Chief Executive, against the police officers of the municipality of Pasig. They exercised their civil and political rights for their mutual aid and protection from what they believe were police excesses. As a matter of fact, it was the duty of herein private respondent firm to protect herein petitioner Union and its members from the harassment of local police officers. It was to the interest of herein private respondent firm to rally to the defense of, and to take up the cudgels for, its employees, so that they can report to work free from harassment, vexation or peril and as a consequence perform more efficiently their respective tasks to enhance its productivity as well as profits. Herein respondent employer did not even offer to intercede for its employees with the local police. Was it securing peace for itself at the expense of its workers? Was it also intimidated by the local police or did it encourage the local police to terrorize or vex its workers? Its failure to defend its own employees all the more weakened the position of its laborers vis-a-vis the alleged oppressive police, who might have been all the more emboldened thereby to subject its lowly employees to further indignities.

In seeking sanctuary behind their freedom of expression as well as their right of assembly and of petition against alleged persecution of local officialdom, the employees and laborers of herein private respondent firm were fighting for their very survival, utilizing only the weapons afforded them by the Constitution — the untrammelled enjoyment of their basic human rights. The pretension of their employer that it would suffer loss or damage by reason of the absence of its employees from 6 o'clock in the morning to 2 o'clock in the afternoon, is a plea for the preservation merely of their property rights. Such apprehended loss or damage would not spell the difference between the life and death of the firm or its owners or its management. The employees' pathetic situation was a stark reality - abused, harassed and persecuted as they believed they were by the peace officers of the municipality. As above intimated, the condition in which the employees found themselves vis-a-vis the local police of Pasig, was a matter that vitally affected their right to individual existence as well as that of their families. Material loss can be repaired or adequately compensated. The debasement of the human being — broken in morale and brutalized in spirit — can never be fully evaluated in monetary terms. The wounds fester and the scars remain to humiliate him to his dying day, even as he cries in anguish for retribution, denial of which is like rubbing salt on bruised tissues.

As heretofore stated, the primacy of human rights - freedom of expression, of peaceful assembly and of petition for redress of grievances – over property rights has been sustained.[18] Emphatic reiteration of this basic tenet as a coveted boon — at once the shield and armor of the dignity and worth of the human personality, the all-consuming ideal of our enlightened civilization — becomes Our duty, if freedom and social justice have any meaning at all for him who toils so that capital can produce economic goods that can generate happiness for all. To regard the demonstration against police officers, not against the employer, as evidence of bad faith in collective bargaining and hence a violation of the collective bargaining agreement and a cause for the dismissal from employment of the demonstrating employees, stretches unduly the compass of the collective bargaining agreement, is "a potent means of inhibiting speech" and therefore inflicts a moral as well as mortal wound on the

constitutional guarantees of free expression, of peaceful assembly and of petition.[19]

The collective bargaining agreement which fixes the working shifts of the employees, according to the respondent Court of Industrial Relations, in effect imposes on the workers the "duty x x x to observe regular working hours." The strained construction of the Court of Industrial Relations that such stipulated working shifts deny the workers the right to stage a mass demonstration against police abuses during working hours, constitutes a virtual tyranny over the mind and life of the workers and deserves severe condemnation. Renunciation of the freedom should not be predicated on such a slender ground.

The mass demonstration staged by the employees on March 4, 1969 could not have been legally enjoined by any court, for such an injunction would be trenching upon the freedom of expression of the workers, even if it legally appears to be an illegal picketing or strike.[20] The respondent Court of Industrial Relations in the case at bar concedes that the mass demonstration was not a declaration of a strike "as the same is not rooted in any industrial dispute although there is a concerted act and the occurrence of a temporary stoppage of work." (Annex "F", p. 45, rec.).

The respondent firm claims that there was no need for all its employees to participate in the demonstration and that they suggested to the Union that only the first and regular shift from 6 A.M. to 2 P.M. should report for work in order that loss or damage to the firm will be averted. This stand failed to appreciate the sine qua non of an effective demonstration especially by a labor union, namely the complete unity of the Union members as well as their total presence at the demonstration site in order to generate the maximum persuasive force that will gain for them not only public sympathy for the validity of their cause but also immediate action on the part of the corresponding government agencies with jurisdiction over the issues they raised against the local police. Circulation is one of the aspects of freedom of expression.[21] If demonstrators are reduced by one-third, then by that much the circulation of the issues raised by the demonstration is diminished. The more the participants, the more persons can be apprised of the purpose of the rally. Moreover, the absence of one-third of their members will be regarded as a substantial indication of disunity in their ranks which will enervate their position and abet continued alleged police persecution. At any rate, the Union notified the company two days in advance of their projected demonstration and the company could have made arrangements to counteract or prevent whatever losses it might sustain by reason of the absence of its workers for one day, especially in this case when the Union requested it to excuse only the day-shift employees who will join the demonstration on March 4, 1969 which request the Union reiterated in their telegram received by the company at 9:50 in the morning of March 4, 1969, the day of the mass demonstration (pp. 42-43, rec.). There was a lack of human understanding or compassion on the part of the firm in rejecting the request of the Union for excuse from work for the day shifts in order to carry out its mass demonstration. And to regard as a ground for dismissal the mass demonstration held against the Pasig police, not against the company, is gross vindictiveness on the part of the employer, which is as unchristian as it is unconstitutional.

III

The respondent company is the one guilty of unfair labor practice. Because the refusal on the part of the respondent firm to permit all its employees and workers to join the mass demonstration against alleged police abuses and the subsequent separation of the eight (8) petitioners from the service constituted an unconstitutional restraint on their freedom of expression, freedom of assembly and freedom to petition for redress of grievances, the respondent firm committed an unfair labor practice defined in Section 4 (a-1) in relation to Section 3 of Republic Act No. 875, otherwise known as the Industrial Peace Act. Section 3 of Republic Act No. 875 guarantees to the employees the right "to engage in concerted activities for x x x mutual aid or protection"; while Section 4 (a-1) regards as an unfair labor practice for an employer "to interfere with, restrain or coerce employees

in the exercise of their rights guaranteed in Section Three."

We repeat that the obvious purpose of the mass demonstration staged by the workers of the respondent firm on March 4, 1969, was for their mutual aid and protection against alleged police abuses, denial of which was interference with or restraint on the right of the employees to engage in such a common action to better shield themselves against such alleged police indignities. The insistence on the part of the respondent firm that the workers for the morning and regular shifts should not participate in the mass demonstration, under pain of dismissal, was as heretofore stated, "a potent means of inhibiting speech." [22]

Such a concerted action for their mutual help and protection, deserves at least equal protection as the concerted action of employees in giving publicity to a letter complaint charging a bank president with immorality, nepotism, favoritism and discrimination in the appointment and promotion of bank employees. [23] We further ruled in the Republic Savings Bank case, *supra*, that for the employees to come within the protective mantle of Section 3 in relation to Section 4(a-1) of Republic Act No. 875, "it is not necessary that union activity be involved or that collective bargaining be contemplated," as long as the concerted activity is for the furtherance of their interests. [24]

As stated clearly in the stipulation of facts embodied in the questioned order of respondent Court dated September 15, 1969, the company, "while expressly acknowledging, that the demonstration is an inalienable right of the Union guaranteed by the Constitution," nonetheless emphasized that "any demonstration for that matter should not unduly prejudice the normal operation of the company" and "warned the PBMEO representatives that workers who belong to the first and regular shifts, who without previous leave of absence approved by the Company, particularly the officers present who are the organizers of the demonstration, who shall fail to report for work the following morning (March 4, 1969) shall be dismissed, because such failure is a violation of the existing CBA and, therefore, would be amounting to an illegal strike (;)" (p. III, petitioner's brief). Such threat of dismissal tended to coerce the employees from joining the mass demonstration. However, the issues that the employees raised against the local police, were more important to them because they had the courage to proceed with the demonstration, despite such threat of dismissal. The most that could happen to them was to lose a day's wage by reason of their absence from work on the day of the demonstration. One day's pay means much to a laborer, more especially if he has a family to support. Yet, they were willing to forego their one-day salary hoping that their demonstration would bring about the desired relief from police abuses. But management was adamant in refusing to recognize the superior legitimacy of their right of free speech, free assembly and the right to petition for redress.

Because the respondent company ostensibly did not find it necessary to demand from the workers proof of the truth of the alleged abuses inflicted on them by the local police, it thereby concedes that the evidence of such abuses should properly be submitted to the corresponding authorities having jurisdiction over their complaint and to whom such complaint may be referred by the President of the Philippines for proper investigation and action with a view to disciplining the local police officers involved.

On the other hand, while the respondent Court of Industrial Relations found that the demonstration "paralyzed to a large extent the operations of the complainant company," the respondent Court of Industrial Relations did not make any finding as to the fact of loss actually sustained by the firm. This significant circumstance can only mean that the firm did not sustain any loss or damage. It did not present evidence as to whether it lost expected profits for failure to comply with purchase orders on that day; or that penalties were exacted from it by customers whose orders could not be filled that day of the demonstration; or that purchase orders, were cancelled by the customers by reason of its failure to deliver the materials ordered; or that its own equipment or materials or products were damaged due to absence of its workers on March 4, 1969. On the contrary, the company saved a sizable amount in

the form of wages for its hundreds of workers, cost of fuel, water and electric consumption that day. Such savings could have amply compensated for unrealized profits or damages it might have sustained by reason of the absence of its workers for only one day.

IV

Apart from violating the constitutional guarantees of free speech and assembly as well as the right to petition for redress of grievances of the employees, the dismissal of the eight (8) leaders of the workers for proceeding with the demonstration and consequently being absent from work, constitutes a denial of social justice likewise assured by the fundamental law to these lowly employees. Section 5 of Article II of the Constitution imposes upon the State "the promotion of social justice to insure the well-being and economic security of all of the people," which guarantee is emphasized by the other directive in Section 6 of Article XIV of the Constitution that "the State shall afford protection to labor x x x." Respondent Court of Industrial Relations as an agency of the State is under obligation at all times to give meaning and substance to these constitutional guarantees in favor of the working man; for otherwise these constitutional safeguards would be merely a lot of "meaningless constitutional patter." Under the Industrial Peace Act, the Court of Industrial Relations is enjoined to effect the policy of the law "to eliminate the causes of industrial unrest by encouraging and protecting the exercise by employees of their right to self-organization for the purpose of collective bargaining and for the promotion of their moral, social and economic well-being." It is most unfortunate in the case at bar that respondent Court of Industrial Relations, the very governmental agency designed therefor, failed to implement this policy and failed to keep faith with its avowed mission — its *raison d'être* — as ordained and directed by the Constitution.

V

It has been likewise established that a violation of a constitutional right divests the court of jurisdiction; and as a consequence its judgment is null and void and confers no rights. Relief from a criminal conviction secured at the sacrifice of constitutional liberties, may be obtained through habeas corpus proceedings even long after the finality of the judgment. Thus, habeas corpus is the remedy to obtain the release of an individual, who is convicted by final judgment through a forced confession, which violated his constitutional right against self-incrimination;^[25] or who is denied the right to present evidence in his defense as a deprivation of his liberty without due process of law,^[26] even after the accused has already served sentence for twenty-two years.^[27]

Both the respondents Court of Industrial Relations and private firm trenched upon these constitutional immunities of petitioners. Both failed to accord preference to such rights and aggravated the inhumanity to which the aggrieved workers claimed they had been subjected by the municipal police. Having violated these basic human rights of the laborers, the Court of Industrial Relations ousted itself of jurisdiction and the questioned orders it issued in the instant case are a nullity. Recognition and protection of such freedoms are imperative on all public offices including the courts^[28] as well as private citizens and corporations, the exercise and enjoyment of which must not be nullified by a mere procedural rule promulgated by the Court of Industrial Relations exercising a purely delegated legislative power, when even a law enacted by Congress must yield to the untrammelled enjoyment of these human rights. There is no time limit to the exercise of these freedoms. The right to enjoy them is not exhausted by the delivery of one speech, the printing of one article or the staging of one demonstration. It is a continuing immunity, to be invoked and exercised when exigent and expedient - whenever there are errors to be rectified, abuses to be denounced, inhumanities to be condemned. Otherwise, these guarantees in the Bill of Rights would be vitiated by a rule on procedure prescribing the period for appeal. The battle then would be reduced to a race for time. And in such a contest between an employer and its laborer, the latter eventually loses because he cannot employ the best and dedicated counsel who can defend his interest with the required diligence

and zeal, bereft as he is of the financial resources with which to pay for competent legal services.[28-a]

VI

The Court of Industrial Relations rule prescribes that a motion for reconsideration of its order or writ should be filed within five (5) days from notice thereof and that the arguments in support of said motion shall be filed within ten (10) days from the date of filing of such motion for reconsideration (Sec. 16). As above-intimated, these rules of procedure were promulgated by the Court of Industrial Relations pursuant to a legislative delegation.[29]

The motion for reconsideration was filed on September 29, 1969, or seven (7) days from notice on September 22, 1969 of the order dated September 15, 1969 — or two (2) days late. Petitioners claim that they could have filed it on September 28, 1969, but it was a Sunday.

Does the mere fact that the motion for reconsideration was filed two (2) days late defeat the rights of the petitioning employees? Or more directly and concretely, does the inadvertent omission to comply with a mere Court of Industrial Relations procedural rule governing the period for filing a motion for reconsideration or appeal in labor cases, promulgated pursuant to a legislative delegation, prevail over constitutional rights? The answer should be obvious in the light of the aforecited cases. To accord supremacy to the foregoing rules of the Court of Industrial Relations over basic human rights sheltered by the Constitution, is not only incompatible with the basic tenet of constitutional government that the Constitution is superior to any statute or subordinate rules and regulations, but also does violence to natural reason and logic. The dominance and superiority of the constitutional right over the aforesaid Court of Industrial Relations procedural rule of necessity should be affirmed. Such a Court of Industrial Relations rule as applied in this case does not implement or reinforce or strengthen the constitutional rights affected, but instead constrict the same to the point of nullifying the enjoyment thereof by the petitioning employees. Said Court of Industrial Relations rule, promulgated as it was pursuant to a mere legislative delegation, is unreasonable and therefore is beyond the authority granted by the Constitution and the law. A period of five (5) days within which to file a motion for reconsideration is too short, especially for the aggrieved workers, who usually do not have the ready funds to meet the necessary expenses therefor. In case of the Court of Appeals and the Supreme Court, a period of fifteen (15) days has been fixed for the filing of the motion for re-hearing or reconsideration (Sec. 10, Rule 51; Sec. 1, Rule 52; Sec. 1, Rule 56, Revised Rules of Court). The delay in the filing of the motion for reconsideration could have been only one day if September 28, 1969 was not a Sunday. This fact accentuates the unreasonableness of the Court of Industrial Relations rule insofar as circumstances of the instant case are concerned.

It should be stressed here that the motion for reconsideration dated September 27, 1969, is based on the ground that the order sought to be reconsidered "is not in accordance with law, evidence and facts adduced during the hearing," and likewise prays for an extension of ten (10) days within which to file arguments pursuant to Sections 15, 16 and 17 of the Rules of the Court of Industrial Relations (Annex "G", pp. 57-60, rec.); although the arguments were actually filed by the herein petitioners on October 14, 1969 (Annex "I", pp. 70-73, rec.), long after the 10-day period required for the filing of such supporting arguments counted from the filing of the motion for reconsideration. Herein petitioners received only on October 28, 1969 the resolution dated October 9, 1969 dismissing the motion for reconsideration for being pro forma since it was filed beyond the reglementary period (Annex "J", pp. 74-75, rec.).

It is true that We ruled in several cases that where a motion to reconsider is filed out of time, or where the arguments in support of such motion are filed beyond the 10-day reglementary period provided for by the Court of Industrial Relations rules, the order or decision subject of reconsideration becomes final and unappealable.[29-A] But in all these cases, the constitutional rights of free expression, free assembly and petition were not involved.

It is a procedural rule that generally all causes of action and defenses presently available must be specifically raised in the complaint or answer; so that any cause of action or defense not raised in such pleadings, is deemed waived. However, a constitutional issue can be raised any time, even for the first time on appeal, if it appears that the determination of the constitutional issue is necessary to a decision of the case, the very *lis mota* of the case without the resolution of which no final and complete determination of the dispute can be made.[30] It is thus seen that a procedural rule of Congress or of the Supreme Court gives way to a constitutional right. In the instant case, the procedural rule of the Court of Industrial Relations, a creature of Congress, must likewise yield to the constitutional rights invoked by herein petitioners even before the institution of the unfair labor practice charged against them and in their defense to the said charge.

In the case at bar, enforcement of the basic human freedoms sheltered no less by the organic law, is a most compelling reason to deny application of a Court of Industrial Relations rule which impinges on such human rights.[30-A]

It is an accepted principle that the Supreme Court has the inherent power to "suspend its own rules or to except a particular case from its operation, whenever the purposes of justice require." [30-B] Mr. Justice Barredo in his concurring opinion in *Estrada vs. Sto. Domingo*. [30-C] reiterated this principle and added that

"Under this authority, this Court is enabled to cope with all situations without concerning itself about procedural niceties that do not square with the need to do justice, in any case, without further loss of time, provided that the right of the parties to a full day in court is not substantially impaired. Thus, this Court may treat an appeal as a certiorari and vice-versa. In other words, when all the material facts are spread in the records before Us, and all the parties have been duly heard, it matters little that the error of the court a quo is of judgment or of jurisdiction, We can then and there render the appropriate judgment. It is within the contemplation of this doctrine that as it is perfectly legal and within the power of this Court to strike down in an appeal acts without or in excess of jurisdiction or committed with grave abuse of discretion, it cannot be beyond the ambit of its authority, in appropriate cases, to reverse in a certain proceeding any error of judgment of a court a quo which cannot be exactly categorized as a flaw of jurisdiction. If there can be any doubt, which I do not entertain, on whether or not the errors this Court has found in the decision of the Court of Appeals are short of being jurisdictional nullities or excesses, this Court would still be on firm legal grounds should it choose to reverse said decision here and now even if such errors can be considered as mere mistakes of judgment or only as faults in the exercise of jurisdiction, so as to avoid the unnecessary return of this case to the lower courts for the sole purpose of pursuing the ordinary course of an appeal." (Italics supplied). [30-D]

Insistence on the application of the questioned Court of Industrial Relations rule in this particular case at bar would be an unreasoning adherence to "procedural niceties," which denies justice to the herein laborers, whose basic human freedoms, including the right to survive, must be accorded supremacy over the property rights of their employer firm, which has been given a full hearing on this case, especially when, as in the case at bar, no actual material damage has been demonstrated as having been inflicted on its property rights.

If We can disregard our own rules when justice requires it, obedience to the Constitution renders more imperative the suspension of a Court of Industrial Relations rule that clashes with the human rights sanctioned and shielded with resolute concern by the specific guarantees outlined in the organic law. It should be stressed that the application in the instant case of Section 15 of the Court of Industrial Relations rules relied upon by herein respondent firm, is unreasonable and therefore such application becomes unconstitutional as it subverts the human rights of petitioning labor union and workers in the light of the peculiar facts and circumstances revealed by the record.

The suspension of the application of Section 15 of the Court of Industrial Relations rules with reference to the case at bar, is also authorized by Section 20 of Commonwealth Act No. 103, the C.I.R. charter, which enjoins the

Court of Industrial Relations to "act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms x x x."

On several occasions, We emphasized this doctrine which was re-stated by Mr. Justice Barredo, speaking for the Court, in the 1970 case of *Kapisanan, etc. vs. Hamilton, etc., et. al.*, [30-E] thus:

"As to the point that the evidence being offered by the petitioners in the motion for new trial is not 'newly discovered,' as such term is understood in the rules of procedure for the ordinary courts, We hold that such criterion is not binding upon the Court of Industrial Relations. Under Section 20 of Commonwealth Act No. 103, 'The Court of Industrial Relations shall adopt its rules or procedure and shall have such other powers as generally pertain to a court of justice: Provided, however, That in the hearing, investigation and determination of any question or controversy and in exercising any duties and power under this Act, the Court shall act according to justice and equity and substantial merits of the case, without regard to technicalities or legal forms and shall not be bound by any technical rules of legal evidence but may inform its mind in such manner as it may deem just and equitable.' By this provision, the industrial court is disengaged from the rigidity of the technicalities applicable to ordinary courts. Said court is not even restricted to the specific relief demanded by the parties but may issue such orders as may be deemed necessary or expedient for the purpose of settling the dispute or dispelling any doubts that may give rise to future disputes. (*Ang Tibay vs. C.I.R.*, G.R. No. 46496, Feb. 17, 1940; *Manila Trading & Supply Co. vs. Phil. Labor*, 71 Phil. 124.) For these reasons, We believe that this provision is ample enough to have enabled the respondent court to consider whether or not its previous ruling that petitioners constitute a minority was founded on fact, without regard to the technical meaning of newly discovered evidence. x x x (*Alonso vs. Villamor*, 16 Phil. 315; *Chua Kiong vs. Whitaker*, 46 Phil. 578)." (italics supplied.)

To apply Section 15 of the Court of Industrial Relations rules with "pedantic rigor" in the instant case is to rule in effect that the poor workers, who can ill-afford an alert and competent lawyer, can no longer seek the sanctuary of the human freedoms secured to them by the fundamental law, simply because their counsel - erroneously believing that he received a copy of the decision on September 23, 1969, instead of September 22, 1969 - filed his motion for reconsideration on September 29, 1969, which practically is only one day late, considering that September 28, 1969 was a Sunday.

Many a time, this Court deviated from procedural technicalities when they ceased to be instruments of justice, for the attainment of which such rules have been devised. Summarizing the jurisprudence on this score, Mr. Justice Fernando, speaking for a unanimous Court in *Palma vs. Oreta*, [30-F] stated:

"As was so aptly expressed by Justice Moreland in *Alonso vs. Villamor* (16 Phil. 315 [1910]. The Villamor decision was cited with approval in *Register of Deeds vs. Phil. Nat. Bank*, 84 Phil. 600 [1949]; *Potenciano vs. Court of Appeals*, 104 Phil. 156 [1958] and *Uy vs. Uy*, 14243, June 30, 1961, 2 SCRA 675.), decided as far back as 1910, 'technicality, when it deserts its proper office as an aid to justice and becomes its great hindrance and chief enemy, deserves scant consideration from courts.' (Ibid., p. 322.) To that norm, this Court has remained committed. The late Justice Recto in *Blanco vs. Bernabe*, (63 Phil. 124 [1936]) was of a similar mind. For him the interpretation of procedural rule should never 'sacrifice the ends justice.' While 'procedural laws are no other than technicalities' to view them in their entirety, 'they were adopted not as ends in themselves for the compliance with which courts have been organized and function, but as means conducive to the realization of the administration of the law and of justice (Ibid., p. 128). We have remained steadfastly opposed, in the highly rhetorical language of Justice Felix, to 'a sacrifice of substantial rights of a litigant in the altar of sophisticated technicalities with impairment of the sacred principles of justice.' (*Potenciano vs. Court of Appeals*, 104 Phil. 156, 161 [1958]). As succinctly put by Justice Makalintal, they 'should give way to the realities of the situation.' (*Urbayan vs. Caltex*, L-15379, Aug. 31, 1962, 5 SCRA 1016, 1019). In the latest decision in point, promulgated in 1968, (*Udan vs. Amon*, L-24288, May 28, 1968, 23 SCRA 837 citing *McEntee vs. Manotok*, L-14968, Oct. 27, 1961, 3 SCRA 272.) Justice Zaldivar was partial to an earlier

formulation of Justice Labrador that rules of procedure 'are not to be applied in a very rigid, technical sense'; but are intended 'to help secure substantial justice.' (Ibid., p. 843). x x x"[30-G]

Even if the questioned Court of Industrial Relations orders and rule were to be given effect, the dismissal or termination of the employment of the petitioning eight (8) leaders of the Union is harsh for a one-day absence from work. The respondent Court itself recognized the severity of such a sanction when it did not include the dismissal of the other 393 employees who are members of the same Union and who participated in the demonstration against the Pasig police. As a matter of fact, upon the intercession of the Secretary of Labor, the Union members who are not officers, were not dismissed, and only the Union itself and its thirteen (13) officers were specifically named as respondents in the unfair labor practice charge filed against them by the firm (pp. 16-20, respondent's Brief; Annexes "A", "B" and "C", pp. 20-30, rec.). Counsel for respondent firm insinuates that not all the 400 or so employees participated in the demonstration, for which reason only the Union and its thirteen (13) officers were specifically named in the unfair labor practice charge (p. 20, respondent's brief). If that were so, then many, if not all, of the morning and regular shifts reported for work on March 4, 1969 and that, as a consequence, the firm continued in operation that day and did not sustain any damage.

The appropriate penalty — if it deserves any penalty at all — should have been simply to charge said one-day absence against their vacation or sick leave. But to dismiss the eight (8) leaders of the petitioner Union is a most cruel penalty, since as aforesaid the Union leaders depend on their wages for their daily sustenance as well as that of their respective families aside from the fact that it is a lethal blow to unionism, while at the same time strengthening the oppressive hand of the petty tyrants in the localities.

Mr. Justice Douglas articulated this pointed reminder:

"The challenge to our liberties comes frequently not from those who consciously seek to destroy our system of government, but from men of goodwill - good men who allow their proper concerns to blind them to the fact that what they propose to accomplish involves an impairment of liberty.

"x x x The motives of these men are often commendable. What we must remember, however, is that preservation of liberties does not depend on motives. A suppression of liberty has the same effect whether the suppressor be a reformer or an outlaw. The only protection against misguided zeal is constant alertness of the infractions of the guarantees of liberty contained in our Constitution. Each surrender of liberty to the demands of the moment makes easier another, larger surrender. The battle over the Bill of Rights is a never ending one.

"x x x The liberties of any person are the liberties of all of us.

"x x x In short, the liberties of none are safe unless the liberties of all are protected.

"x x x But even if we should sense no danger to our own liberties, even if we feel secure because we belong to a group that is important and respected, we must recognize that our Bill of Rights is a code of fair play for the less fortunate that we in all honor and good conscience must observe.[31]

The case at bar is worse.

Management has shown not only lack of good-will or good intention, but a complete lack of sympathetic understanding of the plight of its laborers who claim that they are being subjected to indignities by the local police. It was more expedient for the firm to conserve its income or profits than to assist its employees in their fight for their freedoms and security against alleged petty tyrannies of local police officers. This is sheer opportunism. Such opportunism and expediency resorted to by the respondent company assaulted the immunities and welfare of its employees. It was pure and simple selfishness, if not greed.

Of happy relevance is the 1967 case of Republic Savings Bank vs. C.I.R.,[32] where the petitioner Bank

dismissed eight (8) employees for having written and published "a patently libelous letter x x x to the Bank president demanding his resignation on the grounds of immorality, nepotism in the appointment and favoritism as well as discrimination in the promotion of bank employees." Therein, thru Mr. Justice Castro, We ruled:

"It will avail the Bank none to gloat over this admission of the respondents. Assuming that the latter acted in their individual capacities when they wrote the letter-charge they were nonetheless protected for they were engaged in concerted activity, in the exercise of their right of self-organization that includes concerted activity for mutual aid and protection, (Section 3 of the Industrial Peace Act x x x). This is the view of some members of this Court. For, as has been aptly stated, the joining in protests or demands, even by a small group of employees, if in furtherance of their interests as such, is a concerted activity protected by the Industrial Peace Act. It is not necessary that union activity be involved or that collective bargaining be contemplated. (Annot., 6 A.L.R. 2d 416 [1949]).

x x x x x x x x

"Instead of stifling criticism, the Bank should have allowed the respondents to air their grievances.

x x x x x x x x

"The Bank defends its action by invoking its right to discipline for what it calls the respondents' libel in giving undue publicity to their letter-charge. To be sure, the right of self-organization of employees is not unlimited (Republic Aviation Corp. vs. NLRB, 324 U.S. 793 [1945]), as the right of the employer to discharge for cause (Philippine Education Co. vs. Union of Phil. Educ. Employees, L-13773, April 29, 1960) is undenied. The Industrial Peace Act does not touch the normal exercise of the right of the employer to select his employees or to discharge them. It is directed solely against the abuse of that right by interfering with the countervailing right of self-organization (Phelps Dodge Corp. vs. NLRB 313 U.S. 177 [1941]). x x x

x x x x x x x x

"In the final sum and substance, this Court is in unanimity that the Bank's conduct, identified as an interference with the employees' right of self-organization, or as a retaliatory action, and/or as a refusal to bargain collectively, constituted an unfair labor practice within the meaning and intent of Section 4(a) of the Industrial Peace Act." (Italics supplied.)[33]

If free expression was accorded recognition and protection to fortify labor unionism in the Republic Savings case, supra, where the complaint assailed the morality and integrity of the bank president no less, such recognition and protection for free speech, free assembly and right to petition are rendered all the more justifiable and more imperative in the case at bar, where the mass demonstration was not against the company nor any of its officers.

WHEREFORE, judgement is hereby rendered:

- (1) setting aside as null and void the orders of the respondent Court of Industrial Relations dated September 15 and October 9, 1969; and
- (2) directing the re-instatement of the herein eight (8) petitioners, with full back pay from the date of their separation from the service until re-instated, minus one day's pay and whatever earnings they might have realized from other sources during their separation from the service.

With costs against private respondent Philippine Blooming Mills Company, Inc.

Zaldivar, Ruiz Castro, Fernando, and Esguerra, JJ., concur.

Makalintal, Acting C.J., took no part.

Teehankee, J., concurs in separate opinion.

Barredo, J., dissents in separate opinion.

Antonio, J., concurs in the dissenting opinion.

CONCURRING

TEEHANKEE, J.:

For having carried out a mass demonstration at Malacañang on March 4, 1969 in protest against alleged abuses of the Pasig police department, upon two days' prior notice to respondent employer company, as against the latter's insistence that the first shift^[34] should not participate but instead report for work, under pain of dismissal, the industrial court ordered the dismissal from employment of the eight individual petitioners as union officers and organizers of the mass demonstration.

Respondent court's order finding petitioner union guilty on respondent's complaint of bargaining in bad faith and unfair labor practice for having so carried out the mass demonstration, notwithstanding that it concededly was not a declaration of strike nor directed in any manner against respondent employer, and ordering the dismissal of the union officers, manifestly constituted grave abuse of discretion in fact and in law.

There could not be, in fact, bargaining in bad faith nor unfair labor practice since respondent firm conceded that "the demonstration is an inalienable right of the union guaranteed by the Constitution" and the union up to the day of the demonstration pleaded by cablegram to the company to excuse the first shift and allow it to join the demonstration in accordance with their previous requests.

Neither could there be, in law, a willful violation of the collective bargaining agreement's "no-strike" clause as would warrant the union leaders' dismissal, since as found by respondent court itself the mass demonstration was not a declaration of a strike, there being no industrial dispute between the protagonists, but merely "the occurrence of a temporary stoppage of work" to enable the workers to exercise their constitutional rights of free expression, peaceable assembly and petition for redress of grievance against alleged police excesses.

Respondent court's en banc resolution dismissing petitioners' motion for reconsideration for having been filed two days late, after expiration of the reglementary five-day period fixed by its rules, due to the negligence of petitioners' counsel and/or the union president should likewise be set aside as a manifest act of grave abuse of discretion. Petitioners' petition for relief from the normal adverse consequences of the late filing of their motion for reconsideration due to such negligence — which was not acted upon by respondent court — should have been granted, considering the monstrous injustice that would otherwise be caused the petitioners through their summary dismissal from employment, simply because they sought in good faith to exercise basic human rights guaranteed them by the Constitution. It should be noted further that no proof of actual loss from the one-day stoppage of work was shown by respondent company, providing basis to the main opinion's premise that its insistence on dismissal of the union leaders for having included the first shift workers in the mass demonstration against its wishes was but an act of arbitrary vindictiveness.

Only thus could the basic constitutional rights of the individual petitioners and the constitutional injunction to afford protection to labor be given true substance and meaning. No person may be deprived of such basic rights without due process — which is but "responsiveness to the supremacy of reason, obedience to the dictates of justice. Negatively put, arbitrariness is ruled out and unfairness avoided . . . Due process is thus hostile to any official action marred by lack of reasonableness. Correctly it has been identified as freedom from arbitrariness."^[35]

Accordingly, I vote for the setting aside of the appealed orders of the respondent court and concur in the judgment

for petitioners as set forth in the main opinion.

DISSENTING

BARREDO, J.:

I bow in respectful and sincere admiration, but my sense of duty compels me to dissent.

The background of this case may be found principally in the stipulation of facts upon which the decision under review is based. It is as follows:

"1. That complainant Philippine Blooming Mills, Company, Inc., is a corporation existing and operating under and by virtue of the laws of the Philippines with corporate address at 666 Muelle de Binondo, Manila, which is the employer of respondent;

"2. That Philippine Blooming Mills Employees Organization, PBMEO for short, is a legitimate labor organization, and the respondents herein are either officers of respondent PBMEO or members thereof;

"3. That on March 2, 1969 complainant company learned of the projected mass demonstration at Malacañang in protest against alleged abuses of the Pasig Police Department to be participated by the first shift (6:00 AM - 2:00 PM) workers as well as those working in the regular shifts (7:00 A.M. to 4:00 PM and 8:00 AM to 5:00 PM) in the morning of March 4, 1969;

"4. That a meeting was called by the Company on March 3, 1969 at about 11:00 A.M. at the Company's canteen, and those present were: for the Company: (1) Mr. Arthur L. Ang, (2) Atty. Cesareo S. de Leon, Jr., (3) and all department and section heads. For the PBMEO: (1) Florencio Padrigano, (2) Rufino Roxas, (3) Mariano de Leon, (4) Asencion Paciente, (5) Bonifacio Vacuna and (6) Benjamin Pagcu.

"5. That the Company asked the union panel to confirm or deny said projected mass demonstration at Malacañang on March 4, 1969. PBMEO, thru Benjamin Pagcu who acted as the spokesman of the union panel, confirmed the planned demonstration and stated that the demonstration or rally cannot be cancelled because it has already been agreed upon in the meeting. Pagcu explained further that the demonstration has nothing to do with the Company because the union has no quarrel or dispute with Management;

"6. That Management, thru Atty. C. S. de Leon, Company personnel manager, informed PBMEO that the demonstration is an inalienable right of the union guaranteed by the Constitution but emphasized, however, that any demonstration for that matter should not unduly prejudice the normal operation of the Company. For which reason, the Company, thru Atty. C. S. de Leon, warned the PBMEO representatives that workers who belong to the first and regular shifts, who without previous leave of absence approved by the Company, particularly the officers present who are the organizers of the demonstration, who shall fail to report for work the following morning (March 4, 1969) shall be dismissed, because such failure is a violation of the existing CBA and, therefore, would be amounting to an illegal strike;

"7. That at about 5:00 P.M. on March 3, 1969, another meeting was convoked. Company represented by Atty. C. S. de Leon, Jr. The Union panel was composed of: Nicanor Tolentino, Rodolfo Munsod, Benjamin Pagcu and Florencio Padrigano. In this afternoon meeting of March 3, 1969, Company reiterated and appealed to the PBMEO representatives that while all workers may join the Malacañang demonstration, the workers for the first and regular shift of March 4, 1969 should be excused from joining the demonstration and should report for work; and thus utilize the workers in the 2nd and 3rd shifts in order not to violate the provisions of the CBA, particularly Article XXIV: "NO LOCKOUT - NO STRIKE." All those who will not follow this warning of the Company shall be dismissed; De Leon reiterated the Company's warning that the officers shall be primarily liable being the organizers of the mass demonstration. The union panel countered that it was rather too late to

change their plans inasmuch as the Malacañang demonstration will be held the following morning; and

"8. That a certain Mr. Wilfredo Ariston, adviser of PBMEO sent a cablegram to the Company which was received 9:50 A.M., March 4, 1969, the contents of which are as follows: 'REITERATING REQUEST EXCUSE DAY SHIFT EMPLOYEES JOINING DEMONSTRATION MARCH 4, 1969.'"

Additionally, the trial court found that "the projected demonstration did in fact occur and in the process paralyzed to a large extent the operations of the complainant company." (p. 5, Annex F).

Upon these facts, the Prosecution Division of the Court of Industrial Relations filed with said court a complaint for Unfair Labor Practice against petitioners charging that:

"3. That on March 4, 1969, respondents (petitioners herein) particularly those in the first shift, in violation of the existing collective bargaining agreement and without filing the necessary notice as provided for by law, failed to report for work, amounting to a declaration of strike;

"4. That the above acts are in violation of Section 4(a) sub-paragraph 6, in relation to Sections 13, 14 and 15 of Republic Act No. 875, and of the collective bargaining agreement." (Pars. 3 and 4, Annex C.)

After due hearing, the court rendered judgment, the dispositive part of which reads:

"IN VIEW HEREOF, the respondent Philippine Blooming Mills Employees Organization is found guilty of bargaining in bad faith and is hereby ordered to cease and desist from further committing the same and its representatives namely: respondent Florencio Padrigano, Rufino Roxas, Mariano de Leon, Asencion Paciente, Bonifacio Vacuna, Benjamin Pagcu, Nicanor Tolentino and Rodulfo Munsod who are directly responsible for perpetrating this unfair labor practice act, are hereby considered to have lost their status as employees of the Philippine Blooming Mills, Inc." (p. 8, Annex F.)

Although it is alleged in the petition herein that petitioners were notified of this decision on September 23, 1969, there seems to be no serious question that they were actually served therewith on September 22, 1969. In fact, petitioners admitted this date of notice in paragraph 2 of their Petition for Relief dated October 30, 1969 and filed with the industrial court on the following day. (See Annex K.)

It is not controverted that it was only on September 29, 1969, or seven (7) days after they were notified of the court's decision, that petitioners filed their motion for reconsideration with the industrial court; as it is also not disputed that they filed their "Arguments in Support of the Respondents' Motion for Reconsideration" only on October 14, 1969. (See Annex I.) In other words, petitioners' motion for reconsideration was filed two (2) days after the lapse of the five (5) day period provided for the filing thereof in the rules of the Court of Industrial Relations, whereas the "Arguments" were filed five (5) days after the expiration of the period therefor also specified in the same rules.

Accordingly, the first issue that confronts the Court is the one raised by respondent private firm, namely, that in view of the failure of petitioners to file not only their motion for reconsideration but also their arguments in support thereof within the periods respectively fixed in the rules therefor, the Court of Industrial Relations acted correctly and within the law in rendering and issuing its impugned order of October 9, 1969 dismissing petitioners' motion for reconsideration.

Respondent's contention presents no problem. Squarely applicable to the facts hereof is the decision of this Court in *Elizalde & Co. Inc. vs. Court of Industrial Relations*[36] wherein it was ruled that:

"August 6, 1963. Petitioner received a copy of the decision of the then Associate Judge Arsenio I. Martinez, the dispositive part of which was set forth earlier in this opinion.

"August 12, 1963. Petitioner filed a motion for reconsideration. No arguments were advanced in support thereof.

"August 21, 1963. Petitioner moved for additional time to file its arguments in support of its motion to reconsider.

"August 27, 1963. Petitioner filed its arguments in support of its aforesaid motion seeking reconsideration.

"September 16, 1963. CIR en banc resolved to dismiss the motion for reconsideration. Ground therefor was that the arguments were 'filed out of time.'

"October 3, 1963. Petitioner filed its notice of appeal and at the same time lodged the present petition with this Court.

"Upon respondent Perlado's return and petitioner's brief (respondents did not file their brief), the case is now before us for resolution.

"1. That the judgment appealed from is a final judgment - not merely an interlocutory order - there is no doubt. The fact that there is need for computation of respondent Perlado's overtime pay would not render the decision incomplete. This in effect is the holding of the Court in *Pan American World Airways System (Philippines) vs. Pan American Employees Association*, which runs thus: 'It is next contended that in ordering the Chief of the Examining Division or his representative to compute the compensation due, the Industrial Court unduly delegated its judicial functions and thereby rendered an incomplete decision. We do not believe so. Computation of the overtime pay involves a mechanical function, at most. And the report would still have to be submitted to the Industrial Court for its approval, by the very terms of the order itself. That there was no specification of the amount of overtime pay in the decision did not make it incomplete, since this matter would necessarily be made clear enough in the implementation of the decision (see *Malate Taxicab & Garage, Inc. vs. CIR, et al.*, L-8718, May 11, 1956).'

"2. But has that judgment reached the stage of finality in the sense that it can no longer be disturbed?

"CIR Rules of Procedure, as amended, and the jurisprudence of this Court both answer the question in the affirmative.

"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 the motion must be submitted with arguments supporting the same. But if said arguments could not be submitted simultaneously with the motion, the same section commands that '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.'

"Not that the foregoing rules stand alone. Jurisprudence has since stabilized the enforceability thereof. Thus, in *Bien vs. Castillo*, (97 Phil. 956) we ruled that where a pro forma motion for reconsideration was filed out of time its denial is in order pursuant to CIR rules, regardless of whether the arguments in support of said motion were or were not filed on time. *Pangasinan Employees, Laborers & Tenants Association (PELTA) vs. Martinez*, (L-13846, May 20, 1960) pronounced that where a motion to reconsider is filed out of time, the order or decision subject of reconsideration becomes final. And so also, where the arguments in support of the motion for reconsideration are filed beyond the ten-day reglementary period, the pro forma motion for reconsideration although seasonably filed must nevertheless be denied. This in essence is our ruling in *Local 7, Press & Printing Free Workers (FFW) vs. Tabigne*. 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.'

"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.

"3. There is, of course, petitioner's motion of August 21, 1963 seeking extension of time within which to present its arguments in support of its motion. Counsel in his petition before this Court pleads that the foregoing motion was grounded on the 'extremely busy and difficult schedule of counsel' which would not enable him to do so within the stated ten-day reglementary period. The arguments were only filed on August 27 — five (5) days late, as aforesaid.

"The foregoing circumstances will not avail petitioner any. It is to be noted that the motion for expansion of time was filed only on August 21, that is, one day before the due date which is August 22. It was petitioner's duty to see to it that the court act on this motion forthwith or at least inquire as to the fate thereof not later than the 22nd of August. It did not. It merely filed its arguments on the 27th.

"To be underscored at this point is that 'obviously to speed up the disposition of cases,' CIR 'has a standing rule against the extension of the ten-day period for filing supporting arguments.' That no-extension policy should have placed petitioner on guard. It should not have simply folded its arms, sit by supinely, and relied on the court's generosity. To compound petitioner's neglect, it filed the arguments only on August 27, 1963, knowing full well that by that time the reglementary period had expired.

"Petitioner cannot complain against CIR's ruling of September 16, 1963 dismissing the motion for reconsideration on the ground that the supporting arguments were filed out of time. That ruling in effect denied the motion for extension.

"We rule that CIR's judgment has become final and unappealable. We may not review the same."

Notwithstanding this unequivocal and unmistakable precedent, which has not been in any way modified, much less revoked or reversed by this Court, the main opinion has chosen not only to go into the merits of petitioners' pose that the respondent court erred in holding them guilty of bargaining in bad faith but also to ultimately uphold petitioners' claim for reinstatement on constitutional grounds.

Precisely because the conclusions of the main opinion are predicated on an exposition of the constitutional guarantees of freedoms of speech and peaceful assembly for redress of grievances, so scholarly and masterful that it is bound to overwhelm Us unless We note carefully the real issues in this case, I am constrained, over and above my sincere admiration for the eloquence and zeal of Mr. Justice Makasiar's brilliant dissertation, to dutifully state that as presented by petitioners themselves and in the light of its attendant circumstances, this case does not call for the resolution of any constitutional issue. Admittedly, the invocation of any constitutional guarantee, particularly when it directly affects individual freedoms enshrined in the bill of rights, deserves the closest attention of this Court. It is my understanding of constitutional law and judicial practices related thereto, however, that even the most valuable of our constitutional rights may be protected by the courts only when their jurisdiction over the subject matter is unquestionably established and the applicable rules of procedure consistent with substantive and procedural due process are observed. No doubt no constitutional right can be sacrificed in the altar of procedural technicalities, very often fittingly downgraded as niceties but as far as I know, this principle is applied to annul or set aside final judgments only in cases wherein there is a possible denial of due process. I have

not come across any instance, and none is mentioned or cited in the well-documented main opinion, wherein a final and executory judgment has been invalidated and set aside upon the ground that the same has the effect of sanctioning the violation of a constitutional right, unless such violation amounts to a denial of due process.

Without support from any provision of the constitution or any law or from any judicial precedent or reason of principle, the main opinion nudely and unqualifiedly asserts, as if it were universally established and accepted as an absolute rule, that "a violation of a constitutional right divests the court of jurisdiction; and as a consequence its judgment is null and void and confers no rights." Chavez vs. Court of Appeals, 24 SCRA 663, which is mentioned almost in passing, does uphold the proposition that "relief from a criminal conviction secured at the sacrifice of constitutional liberties, may be obtained through habeas corpus proceedings even after the finality of the judgment." And, of course, Chavez is correct; as is also Abriol vs. Homeres,[37] which, in principle, served as its precedent, for the very simple reason that in both of those cases, the accused were denied due process. In Chavez, the accused was compelled to testify against himself as a witness for the prosecution; in Abriol, the accused was denied his request to be allowed to present evidence to establish his defense after his demurrer to the People's evidence was denied.

As may be seen, however, the constitutional issues involved in those cases are a far cry from the one now before Us. Here, petitioners do not claim they were denied due process. Nor do they pretend that in denying their motion for reconsideration, "the respondent Court of Industrial Relations and private firm trenched upon any of their constitutional immunities . . .," contrary to the statement to such effect in the main opinion. Indeed, neither in the petition herein nor in any of the other pleading of petitioners can any direct or indirect assertion be found assailing the impugned decision of the respondent court as being null and void because it sanctioned a denial of a valued constitutional liberty.

In their petition, petitioners state the issue for Our resolution as follows:

"Petitioners herein humbly submit that the issue to be resolved is whether or not the respondent Court en banc under the facts and circumstances, should consider the Motion for Reconsideration filed by your petitioners.

"Petitioners, therefore, in filing this petition for a writ of certiorari, humbly beg this Honorable Court to treat this petition under Rule 43 and 65 of the Rules of Court."

"x x x x x x x x."

"The basic issue therefore is the application by the Court en banc of the strict and narrow technical rules of procedure without taking into account justice, equity and substantial merits of the case."

On the other hand, the complete argument submitted by petitioners on this point in their brief runs thus:

"III

ISSUES

"1. Does the refusal to heed a warning in the exercise of a fundamental right to peaceably assemble and petition the government for redress of grievances constitute bargaining in bad faith? and,

"Do the facts found by the court below justify the declaration and conclusion that the union was guilty of bargaining in bad faith meriting the dismissal of the persons allegedly responsible therefor?

"2. Was there grave abuse of discretion when the respondent court refused to act one way or another on the petition for relief from the resolution of October 9, 1969?

IV

ARGUMENT

The respondent Court erred in finding the petitioner union guilty of bargaining in bad faith and consequently dismissing the persons allegedly responsible therefor, because such conclusion is contrary to the evidence on record; that the dismissal of leaders was discriminatory.

"As a result of exercising the constitutional rights of freedom to assemble and petition the duly constituted authorities for redress of their grievances, the petitioners were charged and then condemned of bargaining in bad faith.

"The findings that petitioners were guilty of bargaining in bad faith were not borne out by the records. It was not even alleged nor proven by evidence. What has been alleged and which the respondent company tried to prove was that the demonstration amounted to a strike and hence, a violation of the provisions of the 'no-lockout - no strike' clause of the collective bargaining agreement. However, this allegation and proof submitted by the respondent company were practically resolved when the respondent court in the same decision stated categorically:

"The company alleges that the walkout because of the demonstration is tantamount to a declaration of a strike. We do not think so, as the same is not rooted in any industrial dispute although there is a concerted act and the occurrence of a temporary stoppage of work.' (*Italics supplied*, p. 4, 5th paragraph, Decision.)

"The respondent court's findings that the petitioner union bargained in bad faith is not tenable because:

"First, it has not been alleged nor proven by the respondent company;

"Second, before the demonstration, the petitioner union and the respondent company convened twice in a meeting to thresh out the matter of demonstration. Petitioners requested that the employees and workers be excused but the respondent company instead of granting the request or even settling the matter so that the hours of work will not be disrupted, immediately threatened the employees of mass dismissal;

"Third, the refusal of the petitioner union to grant the request of the company that the first shift shall be excluded in the demonstration is not tantamount to bargaining in bad faith because the company knew that the officers of the union belonged to the first shift, and that the union cannot go and lead the demonstration without their officers. It must be stated that the company intends to prohibit its officers to lead and join the demonstration because most of them belonged to the first shift; and

"Fourth, the findings of the respondent court that the demonstration if allowed will practically give the union the right to change the working conditions agreed in the CBA is a conclusion of facts, opinionated and not borne by any evidence on record. The demonstration did not practically change the terms or conditions of employment because it was only for one (1) day and the company knew about it before it went through. We can even say that it was the company who bargained in bad faith, when upon representation of the Bureau of Labor not to dismiss the employees demonstrating, the company tacitly approved the same and yet while the demonstration was in progress, the company filed a ULP Charge and consequently dismissed those who participated.

"Records of the case show that more or less 400 members of the union participated in the demonstration and yet, the respondent court selected the eight officers to be dismissed from the union thus losing their status as employees of the respondent company. The respondent court should have taken into account that the company's action in allowing the return of more or less three hundred ninety two (392) employees/members of the union is an act of condonation and the dismissal of the eight (8) officers is an act of discrimination (*Phil. Air Lines Inc., vs. Phil. Air Lines Employees Association*, G.R. No. L-8197, Oct. 31, 1958). Seemingly, from the opinion stated in the decision by the court, while there is a collective bargaining agreement, the union cannot go on demonstration or go on strike because it will change the terms and conditions of employment agreed in the CBA.

It follows that the CBA is over and above the constitutional rights of a man to demonstrate and the statutory rights of a union to strike as provided in Republic Act 875. This creates a bad precedent because it will appear that the rights of the union is solely dependent upon the CBA.

"One of the cardinal primary rights which must be respected in proceedings before the Court of Industrial Relations is that 'the decision must be rendered on the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected.' (Interstate Commerce Commission vs. L & N R. Co., 227 U.S. 88, 33 S. Ct. 185, 57 Law ed. 431.) Only by confining the administrative tribunal to the evidence disclosed to the parties, can the latter be protected in their rights to know and meet the case against them. (Ang Tibay vs. CIR, G.R. No. L-45496, February 27, 1940.)

"The petitioners respectfully and humbly submit that there is no scintilla of evidence to support the findings of the respondent court that the petitioner union bargained in bad faith. Corollary therefore, the dismissal of the individual petitioners is without basis either in fact or in law."

Additionally, in their reply they also argued that:

"1) That respondent court's finding that petitioners have been guilty of bargaining in bad faith and consequently lost their status as employees of the respondent company did not meet the meaning and comprehension of 'substantial merits of the case.' Bargaining in bad faith has not been alleged in the complaint (Annex 'C', Petition) nor proven during the hearing of the case. The important and substantial merit of the case is whether under the facts and circumstances alleged in respondent company's pleadings, the demonstration done by the petitioners amounted to on 'illegal strike' and therefore in violation of the 'no strike — no lock out' clause of the Collective Bargaining Agreement. Petitioners respectfully reiterate and humbly submit, that the respondent court had altogether opined and decided that such demonstration does not amount to a strike. Hence, with that findings, petitioners should have been absolved of the charges against them. Nevertheless, the same respondent court disregarding, its own findings, went out of bounds by declaring the petitioners as having 'bargained in bad faith.' The stand of the respondent court is fallacious, as it follows the principle in logic as 'non-siquitor';

"2) That again respondents wanted to impress that the freedom to assemble peaceably to air grievances against the duly constituted authorities as guaranteed in our Constitution is subject to the limitation of the agreement in the Collective Bargaining Agreement. The fundamental rights of the petitioners to free speech and assembly is paramount to the provision in the Collective Bargaining Agreement and such attempt to override the constitutional provision would be null and void. These fundamental rights of the petitioners were not taken into consideration in the deliberation of the case by the respondent court";

Thus, it is clear from the foregoing contentions that petitioners are not raising any issue of due process. They do not posit that the decision of the industrial court is null and void on that constitutional ground. True it is that they fault the respondent court for having priced the provisions of the collective bargaining agreement herein involved over and above their constitutional right to peaceably assemble and petition for redress of their grievances against the abuses of the Pasig police, but in no sense at all do they allege or contend that such action affects its jurisdiction in a manner that renders the proceedings a nullity. In other words, petitioners themselves consider the alleged flaw in the court's action as a mere error of judgment rather than that of jurisdiction which the main opinion projects. For this Court to roundly and indignantly condemn private respondent now for the grievous violation of the fundamental law the main opinion sees in its refusal to allow all its workers to join the demonstration in question, when that specific issue has not been duly presented to Us and properly argued, is to my mind unfair and unjust, for the simple reason that the manner this case was brought to Us does not afford it the opportunity to be heard in regard to such supposed constitutional transgression.

To be sure, petitioners do maintain, that respondent court committed an error of jurisdiction by finding petitioners guilty of bargaining in bad faith when the charge against them alleged in the complaint was for having conducted a mass demonstration, which "amounted to a strike," in violation of the Collective Bargaining Agreement, but definitely, this jurisdictional question has no constitutional color. Indeed, We can even assume for the sake of argument, that the trial judge did err in not giving preferential importance to the fundamental freedoms invoked by the petitioners over the management and proprietary attributes claimed by the respondent private firm — still, We cannot rightly hold that such disregard of petitioners' priceless liberties divested His Honor of jurisdiction in the premises. The unbending doctrine of this Court is that "decisions, erroneous or not, become final after the period fixed by law; litigations would be endless, no questions would be finally settled; and titles to property would become precarious if the losing party were allowed to reopen them at any time in the future." [38]

I only have to add to this that the fact that the error is in the interpretation, construction or application of a constitutional precept, not constituting a denial of due process, should not make any difference. Juridically, a party cannot be less injured by an overlooked or erroneously sanctioned violation of an ordinary statute than by a misconstrued or misapplied constitutional injunction affecting his individual freedoms. In both instances, there is injustice which should be intolerable were it not for the more paramount considerations that inform the principle of immutability of final judgments. I dare say this must be the reason why, as I have already noted, the main opinion does not cite any constitutional provision, law or rule or any judicial doctrine or principle supporting its basic holding that infringement of constitutional guarantees, other than denial of due process, divests courts of jurisdiction to render valid judgments.

In this connection, it must be recalled that the teaching of *Philippine Association of Colleges and Universities vs. Secretary of Education*, [39] following *Santiago vs. Far Eastern Broadcasting*, [40] is that "it is one of our (the Supreme Court's) decisional practices that unless a constitutional point is specifically raised, insisted upon and adequately argued, the court will not consider it." In the case at bar, the petitioners have not raised, they are not insisting upon, much less have they adequately argued the constitutional issues so extendedly and ably discussed in the main opinion.

Indeed, it does not seem wise and sound for the Supreme Court to hold that the erroneous resolution by a court of a constitutional issue not amounting to a denial of due process renders its judgment or decision null and void, and, therefore, subject to attack even after said judgment or decision has become final and executory. I have actually tried to bring myself into agreement with the views of the distinguished and learned writer of the main opinion, if only to avoid dissenting from his well prepared thesis, but its obvious incongruity with settled jurisprudence always comes to the fore to stifle my effort.

As a matter of fact, for a moment, it appeared to me as if I could go along with petitioners under the authority of our constitutionally irreducible appellate jurisdiction under Section 2 (5) of Article VII of the 1935 Constitution of the Philippines [41] (reenacted practically *ipssimis verbis* in Section 5 (2) (e) of the 1973 Constitution), only to realize upon further reflection that the very power granted to Us to review decisions of lower courts involving questions of law (and these include constitutional issues not affecting the validity of statutes, treaty, executive agreement, etc.) is not unqualified but has to be exercised only in the manner provided in the law or the Rules of Court. In other words, before We can exercise appellate jurisdiction over constitutional issues, no matter how important they may be, there must first be a showing of compliance with the applicable procedural law or rules, among them, those governing appeals from the Court of Industrial Relations involved herein. Consequently, if by law or rule, a judgment of the industrial court is already final and executory, this Court would be devoid of power and authority to review, much less alter or modify the same, absent any denial of due process or fatal defect of jurisdiction. It must be borne in mind that the situation confronting Us now is not merely whether or not We

should pass upon a question or issue not specifically raised by the party concerned, which, to be sure, could be enough reason to dissuade Us from taking pains in resolving the same; rather, the real problem here is whether or not We have jurisdiction to entertain it. And, in this regard, as already stated earlier, no less than Justice Conrado Sanchez, the writer of Chavez, supra., which is being relied upon by the main opinion, already laid down the precedent in Elizalde vs. Court, supra, which for its four-square applicability to the facts of this case, We have no choice but to follow, that is, that in view of the failure of the petitioners to file not only their motion for reconsideration but even their argument supporting the same within the prescribed period, "the judgment (against them) has become final, beyond recall."

Indeed, when I consider that courts would be useless if the finality and enforceability of their judgments are made contingent on the correctness thereof from the constitutional standpoint, and that in truth, whether or not they are correct is something that is always dependent upon combined opinion of the members of the Supreme Court, which in turn is naturally as changeable as the members themselves are changed, I cannot conceive of anything more pernicious and destructive to a trustful administration of justice than the idea that, even without any showing of denial of due process or want of jurisdiction of the court, a final and executory judgment of such court may still be set aside or reopened in instances other than those expressly allowed by Rule 38 and that of extrinsic fraud under Article 1146 (1) of the Civil Code.[42] And just to emphasize the policy of the law of respecting judgments once they have become final, even as this Court has ruled that final decisions are mute in the presence of fraud which the law abhors,[43] it is only when the fraud is extrinsic and not intrinsic that final and executory judgments may be set aside,[44] and this only when the remedy is sought within the prescriptive period.[45]

Apropos here is the following passage in *Li Kim Tho vs. Go Sin Kaw*, 82 Phil. 776:

"Litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict. Courts must therefore guard against any scheme calculated to bring about that result. Constituted as they are to put an end to controversies, courts should frown upon any attempt to prolong them."

Likewise the stern admonition of Justice George Malcolm in *Dy Cay vs. Crossfield*, 38 Phil. 521, thus:

"x x x. Public policy and sound practice demand that, at the risk of occasional errors, judgments of courts should become final at some definite date fixed by law. The very object for which courts were instituted was to put an end to controversies. To fulfill this purpose and to do so speedily, certain time limits, more or less arbitrary, have to be set up to spur on the slothful. 'If a vacillating, irresolute judge were allowed to thus keep causes ever within his power, to determine and redetermine them term after term, to bandy his judgments about from one party to the other, and to change his conclusions as freely and as capriciously as a chameleon may change its hues, then litigation might become more intolerable than the wrongs it is intended to redress.' (See *Arnedo vs. Llorente and Liongson* (1911), 18 Phil., 257.)."

My disagreement with the dissenters in *Republic vs. Judge de los Angeles*, L-26112, October 4, 1971, 41 SCRA 422, was not as to the unalterability and invulnerability of final judgments but rather on the correct interpretation of the contents of the judgment in question therein. Relevantly to this case at bar, I said then:

"The point of *res adjudicata* discussed in the dissents has not escaped my attention. Neither am I overlooking the point of the Chief Justice regarding the dangerous and inimical implications of a ruling that would authorize the revision, amendment or alteration of a final and executory judgment. I want to emphasize that my position in this opinion does not detract a whit from the soundness, authority and binding force of existing doctrines enjoining any such modifications. The public policy of maintaining faith and respect in judicial decisions, which inform said doctrines, is admittedly of the highest order. I am not advocating any departure from them. Nor am I trying to put forth for execution a decision that I believe should have been rather than

what it is. All I am doing is to view not the judgment of Judge Tengco but the decision of this Court in G.R. No. L-20950, as it is and not as I believe it should have been, and, by this opinion, I would like to guide the court a quo as to what, in my honest view, is the true and correct meaning and implications of the decision of this Court, not that of Judge Tengco's."

The main opinion calls attention to many instances, precisely involving cases in the industrial court, wherein the Court refused to be constrained by technical rules of procedure in its determination to accord substantial justice to the parties. I still believe in those decisions, some of which were penned by me. I am certain, however, that in none of those precedents did this Court disturb a judgment already final and executory. It is too obvious to require extended elucidation or even reference to any precedent or authority that the principle of immutability of final judgments is not a mere technicality, and if it may be considered to be in a sense a procedural rule, it is one that is founded on public policy and cannot, therefore, yield to the ordinary plea that it must give priority to substantial justice.

Apparently vent on looking for a constitutional point of due process to hold on, the main opinion goes as far as to maintain that the long existing and constantly applied rule governing the filing of motions for reconsideration in the Court of Industrial Relations, "as applied in this case does not implement or reinforce or strengthen the constitutional rights affected, but instead constricts the same to the point of nullifying the enjoyment thereof by the petitioning employees. Said Court of Industrial Relations Rule, promulgated as it was pursuant to a mere legislative delegation, is unreasonable and therefore is beyond the authority granted by the Constitution and the law. A period of five (5) days within which to file a motion for reconsideration is too short, especially for the aggrieved workers, who usually do not have the ready funds to meet the necessary expenses therefor. In case of the Court of Appeals and the Supreme Court, a period of fifteen (15) days has been fixed for the filing of the motion for re-hearing or reconsideration (Sec. 10, Rule 51; Sec. 1, Rule 52; Sec. 1, Rule 56, Revised Rules of Court). The delay in the filing of the motion for reconsideration could have been only one day if September 28, 1969 was not a Sunday. This fact accentuates the unreasonableness of the Court of Industrial Relations Rule insofar as circumstances of the instant case are concerned."

I am afraid the zeal and passion of these arguments do not justify the conclusion suggested. Viewed objectively, it can readily be seen that there can hardly be any factual or logical basis for such a critical view of the rule in question. Said rule provides:

"MOTIONS FOR RECONSIDERATION

"Sec. 15. The movant shall file the motion, in six copies, within five (5) days from the date on which he receives notice of the order or decision, object of the motion for reconsideration, the same to be verified under oath with respect to the correctness of the allegations of fact, and serving a copy thereof, personally or by registered mail, on the adverse party. The latter may file an answer, in six (6) copies, duly verified under oath.

"Sec. 16. Both the motion and the answer shall be submitted with arguments supporting the same. If the arguments can not be submitted simultaneously with said motions, upon notice to the Court, the movant shall file same within ten (10) days from the date of the filing of his motion for reconsideration. The adverse party shall also file his answer within ten (10) days from the receipt by him of a copy of the arguments submitted by the movant.

"Sec. 17. After an answer to the motion is registered, or after ten (10) days from the receipt of the arguments in support of said motion having been filed, the motion shall be deemed submitted for resolution of the Court en banc, unless it is considered necessary to hear oral arguments, in which case the Court shall issue the corresponding order or notice to that effect.

"Failure 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. (As amended April 20, 1951, Court of Industrial Relations.)."

As implemented and enforced in actual practice, this rule, as everyone acquainted with proceedings in the industrial court well knows, precisely permits the party aggrieved by a judgment to file no more than a pro-forma motion for reconsideration without any argument or lengthy discussion and with barely a brief statement of the fundamental ground or grounds therefor, without prejudice to supplementing the same by making the necessary exposition, with citations of laws and authorities, in the written arguments to be filed ten (10) days later. In truth, such a pro-forma motion has the effect of just advising the court and the other party that the movant does not agree with the judgment due to fundamental defects stated in brief and general terms. Evidently, the purpose of this requirement is to apprise everyone concerned within the shortest possible time that a reconsideration is to be sought, and thereby enable the parties concerned to make whatever adjustments may be warranted by the situation, in the meanwhile that the litigation is prolonged. It must be borne in mind that cases in the industrial court may involve or affect the operation of vital industries in which labor-management problems might require day-to-day solutions and it is to the best interests of justice and all concerned that the attitude of each party at every important juncture of the case be known to the other so that other avenues for earlier settlement may, if possible, be explored.

There can be no reason at all to complain that the time fixed by the rule is short or inadequate. In fact, the motion filed by petitioners was no more than the following:

"MOTION FOR RECONSIDERATION

"COME NOW movant-respondents, through counsel, to this Honorable Court most respectfully moves for the RECONSIDERATION of the Order of this Honorable Court dated September 17, 1969 on the ground that the same is not in accordance with law, evidence and facts adduced during the hearing of the above-entitled case.

"Movant-respondents most respectfully move for leave to file their respective arguments within ten (10) days pursuant to Section 15, 16 & 17 as amended of the Rules of Court.

"WHEREFORE, it is respectfully prayed that this Motion for Reconsideration be admitted.

"Manila, September 27, 1969."

To say that five (5) days is an unreasonable period for the filing of such a motion is to me simply incomprehensible. What is worse in this case is that petitioners have not even taken the trouble of giving an explanation of their inability to comply with the rule. Not only that, petitioners were also late five (5) days in filing their written arguments in support of their motion, and, of the Union and the office clerk who took charge of the matter forgot to do what they were instructed to do by counsel, which, according to this Court, as I shall explain anon, "is the most hackneyed and habitual subterfuge employed by litigants who fail to observe the procedural requirements prescribed by the Rules of Court." (Philippine Airlines, Inc. vs. Arca, *infra*). And yet, very indignantly, the main opinion would want the Court to overlook such nonchalance and indifference.

In this connection, I might add that in my considered opinion, the rules fixing periods for the finality of judgments are in a sense more substantive than procedural in their real nature, for in their operation they have the effect of either creating or terminating rights pursuant to the terms of the particular judgment concerned. And the fact that the court that rendered such final judgment is deprived of jurisdiction or authority to alter or modify the same enhances such substantive character. Moreover, because they have the effect of terminating rights and the enforcement thereof, it may be said that said rules partake of the nature also of rules of prescription, which again are substantive. Now, the twin predicates of prescription are inaction or abandonment and the passage of time or a

prescribed period. On the other hand, procrastination or failure to act on time is unquestionably a form of abandonment, particularly when it is not or cannot be sufficiently explained. The most valuable right of a party may be lost by prescription, and he has no reason to complain because public policy demands that rights must be asserted in time, as otherwise they can be deemed waived.

I see no justification whatsoever for not applying these self-evident principles to the case of petitioners. Hence, I feel disinclined to adopt the suggestion that the Court suspend, for the purposes of this case the rules aforequoted of the Court of Industrial Relations. Besides, I have grave doubts as to whether we can suspend rules of other courts, particularly one that is not under our supervisory jurisdiction, being an administrative agency under the Executive Department. Withal, if, in order to hasten the administration of substantial justice, this Court did exercise in some instances its reserve power to amend its rules, I am positively certain, it has never done it for the purpose of reviving a case in which the judgment has already become final and executory.

Before closing, it may be mentioned here, that as averred in their petition, in a belated effort to salvage their cause, petitioners filed in the industrial court on October 31, 1969 a Petition for relief alleging that their failure to file their "Arguments in Support of their Motion for Reconsideration" within the reglementary period of five (5), if not seven (7), days late "was due to excusable negligence and honest mistake committed by the President of the respondent Union and of the office clerk of the counsel for respondents as shown and attested in their respective affidavits," (See Annexes K, K-1, and K-2) which in brief, consisted allegedly of the said President's having forgotten his appointment with his lawyer "despite previous instructions" and of the said office employee having also coincidentally forgotten "to do the work instructed (sic) to (him) by Atty. Osorio" because he "was busy with clerical jobs." No sympathy at all can be evoked by these allegations, for, under probably more justifying circumstances, this Court ruled out a similar explanation in a previous case this wise:

"We find merit in PAL's petition. The excuse offered respondent Santos as reason for his failure to perfect in due time his appeal from the judgment of the Municipal Court, that counsel's clerk forgot to hand him the court notice, is the most hackneyed and habitual subterfuge employed by litigants who fail to observe the procedural requirements prescribed by the Rules of Court. The uncritical acceptance of this kind of common place excuses, in the face of the Supreme Court's repeated rulings that they are neither credible nor constitutive of excusable negligence (Gaerlan vs. Bernal, L-4039, 29 January 1952; Mercado vs. Judge Domingo, L-19457, 17 December 1966) is certainly such whimsical exercise of judgment as to be a grave abuse of discretion." (Philippine Air Lines, Inc. vs. Arca, 19 SCRA 300.)

For the reason, therefore, that the judgment of the industrial court sought to be reviewed in the present case has already become final and executory, nay, not without the fault of the petitioners, hence, no matter how erroneous from the constitutional viewpoint it may be, it is already beyond recall, I vote to dismiss this case, without pronouncement as to costs.

[1] L-7428, May 24, 1955.

[2] American Com. vs. Douds, 339 U.S. 382, 421.

[3] Justice Cardoso, Nature of Judicial Process, 90-93; Tañada and Fernando, Constitution of the Philippines, 1952 ed., 71.

[4] West Virginia State Board of Education vs. Barnette, 319 U.S. 624, 638, italics supplied.

[5] Laski, The State in Theory and Practice, 35-36.

[6] See Chafee on Freedom of Speech and Press, 1955, pp. 13-14.

[7] Justice Douglas, A Living Bill of Rights (1961), p. 64, cited by Justice Castro in Chavez vs. Court of Appeals, 24 SCRA 663, 692.

[8] Marsh vs. Alabama, 326 U.S. 501, 509; Tucker vs. Texas, 326 U.S. 517, 519-520.

[9] NACCP vs. Button (Jan. 14, 1963), 371 U.S. 415, 433, 9 L. Ed. 2nd 405, 418.

[10] Terminiello vs. Chicago, 337 U.S. 1.

[11] Thomas vs. Collins (1945), 323 U.S. 516, 530, cited by Mr. Justice Castro in his concurring opinion in Gonzales vs. Comelec, April 18, 1969, 27 SCRA 835, 895.

[12] Edu vs. Ericta, L-32096, Oct. 24, 1970, 35 SCRA 481, 489; Ichong vs. Hernandez, 101 Phil. 1155, 1165-66, 1175.

[13] L-27833, April 18, 1969, 27 SCRA 835; L-32432, Sept. 11, 1970, 35 SCRA 28; Ignacio vs. Ela (1965), 99 Phil. 346; Primicias vs. Fugoso (1948), 80 Phil. 71; Terminiello vs. Chicago, 337 U.S. 1; Virginia State Board of Education vs. Barnette, 319 U.S. 624, 639; 87 Law. Ed. 1628, 1638.

[14] March 9, 1964, 376 U.S. 254, 270; Greenbelt, etc. vs. Bresler (May 18, 1970), 398 U.S. 6, 20; see also Justice Fernando, Bill of Rights, 1970 Ed., pp. 78-81, 96-113.

[15] Gonzales vs. Comelec, supra.

[16] Gonzales vs. Comelec, supra.

[17] Dennis vs. U.S. (1951), 341 U.S. 494.

[18] Marsh vs. Alabama, 326 U.S. 501; Tucker vs. Texas, 326 U.S. 517.

[19] Pickering vs. Board of Education, 391 U.S. 563, 574 (1968).

[20] Security Bank Employees Union-NATU vs. Security Bank and Trust Co., April 30, 1968, 23 SCRA 503-515; Caltex vs. Lucero, April 28, 1962, 4 SCRA 1196, 1198-99; Malayang Manggagawa sa ESSO vs. ESSO, July 30, 1965, 14 SCRA 801, 806, 807; De Leon vs. National Labor Union, 100 Phil. 792; PAFLU vs. Barot, 99 Phil. 1008; Continental Manufacturing Employees Assoc., et al. vs. C.I.R., et al., L-26849, Sept. 30, 1970, 35 SCRA 204.

[21] Sotto vs. Ruiz, 41 Phil. 468; Shuttleworth vs. Birmingham (1969), 394 U.S. 147; Largent vs. Texas, 318 U.S. (1943) 418; Jamison vs. Texas, (1943) 318 U.S. 413; Lovell vs. Griffin (1938) 303 U.S. 444; Gorsjean vs. American Press Co. (1936) 297 U.S. 233; Subido vs. Ozaeta, 80 Phil. 383; Justice Fernando, Bill of Rights, 1970 Ed., pp. 90-93.

[22] Pickering vs. Board of Education, 391 U.S. 563, 574, 20 L. Ed. 2nd, 811, 820.

[23] Republic Saving Bank vs. C.I.R., et al., Sept. 27, 1967, 21 SCRA 226, 232, 233, 661, 662, 663-664.

[24] 21 SCRA 233.

[25] Justice Sanchez in Chavez vs. Court of Appeals, 24 SCRA 663, 692, Aug. 19, 1968; See also concurring opinion of Justice Castro; Camasura vs. Provost Marshall, 78 Phil. 131.

[26] Abriol vs. Homeres, 84 Phil. 525, 1949.

[27] Fay vs. Noia, 372 U.S. 391 (1963).

[28] West Virginia State Board of Education vs. Barnette, *supra*.

[28-A] Victorias Milling Co., Inc. vs. W.C.C., L-25665, May 22, 1969, 28 SCRA 285-298.

[29] Sec. 20, Com. Act No. 103, as amended.

[29-A] Elizalde & Co., Inc. vs. C.I.R., et al., September 23, 1968, 25 SCRA 58, 61-63; Bien vs. Castillo, 97 Phil. 956; Pangasinan Employees, etc. vs. Martinez, May 20, 1960, 108 Phil. 89; Local 7, etc. vs. Tabigne, Nov. 29, 1960, 110 Phil. 276; Luzon Stevedoring vs. C.I.R., July 26, 1963, 8 SCRA 447; Manila Metal, etc. vs. C.I.R., July 31, 1963, 8 SCRA 552.

[30] People vs. Vera, 65 Phil. 56, 82; Mercado vs. Go Bio, 48 O.G. 5360.

[30-A] See Workmen's Ins. Co., Inc. vs. Augusto, L-31060, July 29, 1971, 40 SCRA 123, 127.

[30-B] Ronquillo vs. Marasigan, L-11621, May 31, 1962, 5 SCRA 304, 312-313; Ordoveza vs. Raymundo, 63 Phil. 275.

[30-C] L-30570, July 29, 1969, 28 SCRA 890, 933-34.

[30-D] 28 SCRA 933-934.

[30-E] L-23714, June 13, 1970, 33 SCRA 887, 907-908.

[30-F] L-27807, Aug. 31, 1970, 34 SCRA 738, 742-3.

[30-G] 34 SCRA 742-743.

[31] A Living Bill of Rights (1961), pp. 61, 62, 64; 24 SCRA, 690-692; italics supplied.

[32] 21 SCRA 226-241, Sept. 27, 1967.

[33] 21 SCRA 232-237.

[34] The first shift comprised the workers from 6 A.M. to 2 P.M. Respondent company had no objection to the two regular shifts workers (7 A.M. to 4 P.M. and 8 A.M. to 5 P.M.) being excused from work for the mass demonstration.

[35] Ermita-Malate Hotel Operators Ass'n. vs. City Mayor, 20 SCRA 849 (1967), per Fernando, J.

[36] 25 SCRA 58.

[37] 86 Phil. 525.

[38] Daquis vs. Bustos, 94 Phil. 913, reiterated in Maramba vs. Lozano, 20 SCRA 474. See also Vicente vs. Lucas, 95 Phil. 716.

[39] 97 Phil. 806, at p. 816.

[40] 73 Phil. 408.

[41] Under which this case was filed.

[42] Mauricio vs. Villanueva, 106 Phil. 1159, cited by Moran in Vol. 11, p. 246 (1970 ed.).

[43] Garchitorena vs. Sotelo, 74 Phil. 25.

[44] Amuran vs. Aquino, 38 Phil. 29; Javier vs. Paredes, 52 Phil. 910; Domingo vs. David, 68 Phil. 134.

[45] Quion vs. Claridad, 74 Phil. 100.

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