

MANILA SANITARIUM & HOSPITAL AND/OR H. L. DYER, PETITIONERS, VS. FAUSTO GABUCO AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G. R. No. L-14311. January 31, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

On December 19, 1956, respondent Fausto Gabuco instituted with the respondent Court of Industrial Relations, a complaint for Unfair Labor Practice against the petitioner (Case No. 1143 ULP), alleging—

- "1. That the complainant being an employee of the respondents, together with some of his co-employees proposed to respondents, through a petition in writing dated August 2, 1956 the return of the privileges they usually enjoyed, i.e., (1) rental subsidies, (2) child allowance, (3) Educational grant, and (4) Transportation allowance;
2. That on August 14, 1956, the complainant in company with his other co-employees in respondent hospital convoked a meeting and organized a union in which he was elected President; and
3. That upon respondents' learning complainant's organization of a union, they dismissed Fausto Gabuco on September 30, 1956, in order to discourage union membership."

On December 26, 1956, the herein petitioners filed their Answer, specifically denying the charges and averred that Fausto Gabuco was removed because (1) his job was no longer necessary and (2) he was given the equity separation allowance.

Under date of April 15, 1957, the Hospital presented a Motion to Dismiss, contending that the CIR did not have jurisdiction over the case, since the Manila Sanitarium and Hospital was not established for profit or gain, and that aside from being operated for charitable purposes, it is also the nature of an educational institution, for it educates and trains nurses. On June 11, 1957, the following order was issued: "The grounds * * *, having been found, after due hearing, to be not indubitable, said motion is hereby denied without prejudice to the issues therein raised being disposed of in the decision of the merits after all evidence is submitted." The parties presented evidence in support of their respective contentions. After making definite findings that Fausto Gabuco had organized the Hospital Employees Union on August 14, 1956, and that respondents therein had learned of it, the trial court, anent the cause of the dismissal of Gabuco, held:

"Premises considered, this Court is of the opinion and so holds, that respondents are guilty of unfair labor practices within the meaning of Section 4(a), 1 and 4 of the Industrial Peace Act, by discriminately discharging Fausto Gabuco on September 30, 1956 for union activities. Hence, the respondents are hereby ordered to reinstate fully and immediately Fausto Gabuco with back wages from October 1, 1956 until reinstated without prejudice to seniority or other rights and privileges he enjoyed before his separation.

The respondents shall cease and desist from such unfair labor practice."

Respondents presented a Motion for Reconsideration, on the ground that the judgment was contrary to law and jurisprudence and facts and evidence submitted during the hearing. In same Motion, respondents informed the court that they would be submitting their arguments in support of the motion within ten (10) days from July 31, 1958. On August 8, 1958, respondents presented a "Motion for Extension of Time" to file their memorandum, which was denied on August 11, 1958, on the ground that the Court en banc has adopted a 'no extension' policy. Under date of August 13, 1958, respondents presented their Memorandum, assailing the decision on various grounds. On August 18, 1958, complainant Gabuco, now respondent, presented a Motion to Dismiss the Motion for Reconsideration, alleging in support thereof that the memorandum had been filed one (1) day late. The above motion was opposed by respondents, claiming substantial compliance with the law. On August 21, 1958, the Court en banc dismissed the motion for reconsideration. Judge Tabigne dissented.

The Manila Sanitarium and Hospital brought to this Court the decision and the resolutions denying its motion for extension and dismissing its Motion for Reconsideration, on a Writ of Certiorari, claiming, that the CIR acted without or in excess of its jurisdiction and/or with grave abuse of discretion, and committed substantial errors of law in:

- Taking cognizance of the case subject of this petition and finding petitioner Manila Sanitarium & Hospital, to 'be an institution operated for profit "or gain;
- Finding the herein petitioners guilty of unfair labor practices;
- Ordering the herein petitioners to reinstate immediately Respondent Fauato Gabuco with back wages from October I, 1956 until fully reinstated; and
- In not giving' dim course to petitioners' Motion for Reconsideration.

The conclusions reached by the respondent court on the question of jurisdiction has no factual and legal basis. The grounds upon which the respondent court had predicated said conclusions on the nature, character and activities of the petitioner, are set forth in the appealed decision, as follows—

"* * *. This Court cannot subscribe to the contention al' respondents because the Manila Sanitarium and Hospital is being operated not on charity but on practically business basis by charging medical and hospital fees and does not maintain a free ward; whereas the Boy Scouts of the Philippines has always been operating on charity-alms from private us well as government entities, and the voluntary contributions of private individuals.

In other words, respondent hospital is operated, just like any other private hospital, for profit and gain. While the yardstick used in the Boy Scouts of the Philippines vs. Juliana Araos case for determining whether or not an institution or concern is operated for profit or gain is the charitable end of the same, the instant case does not fall under that norm considering that unlike the Boy Scouts it engages in charging medical and hospital fees without even as much as maintaining a free ward."

The evidence of record, mainly documentary, definitely proves that the Manila Sanitarium and Hospital is a non-profit, non-industrial establishment. The articles of Incorporation of the Philippine Union Mission Corporation of the Seventh Day Adventists, a religious corporation, (Exhs. A-B), to which the hospital is a subsidiary, provides the following—

"Third:—That the general and principal purpose and object for which this corporation is formed is to teach the people of all nations the commandments of God and the everlasting Gospel of Jesus Christ, and the subsidiary purposes and objects for which this corporation is formed are: to issue notes, to grant annuities, to acquire, possess, and hold title to real, personal and mixed estates, including public or private lands for agricultural development and other purposes, water rights, mining rights, and forest rights, either in trust or otherwise, by

gift, bequest, device, or purchase, and to have the power to sell and convey the same by such instrument or conveyance as may be suitable; to establish and operate sanitariums, hospitals, clinics, publishing houses, and book and periodical agencies; * * *."

As such religious corporation, the Seventh Day Adventists expressly declared that it is not for personal profit or gain to any individual, but that all its property and effects must be used and expended in carrying into effect the aims and objects of its existence. The Commissioner of Internal Revenue, as early as March 11, 1956, and August 15, 1958, had declared that "upon investigation conducted by a representative of this office, it was ascertained that the Manila Sanitarium & Hospital where they (Pharmacists) are employed, is a religious and charitable institution not conducted for private gain" (Annex O, of Petition; Appendix C). The Operating Policy of the Seventh Day Adventists, (Article, II), states that the object of the Hospital is "to advance through medical missionary work, the cause and Kingdom of Jesus Christ * * * it being understood that no dividends or profits shall ever be declared to any constituency, boards or to any of its working force" (Annex A-l of the petition). W. J. Hackett, Minister and President of the Philippine Union Mission Corporation of the Seventh-Day Adventists, Potenciano Romulo, Secretary of the same religious denomination and Dr. Rey Jutry, Chief Medical Staff and member of the Board of Management of the Manila Sanitarium and Hospital, testified in unison that the hospital was not operated for private gain or profit. Their testimony had not been contradicted by respondent Fausto Gabuco.

With respect to its management, the respondent Court commented that this medical institution is operated in the fashion of an ordinary private hospital, imposing medical and hospital fees. This must be conceded; or it is one way of obtaining maximum efficiency in its service. The mere charging of medical and hospital fees for those who can afford to pay, did not make the institution established for profit or gain. It had to meet expenses for operation and maintenance, in order to carry its lofty purposes to serve suffering humanity (U.S.T. Hospital Employees vs. Santo Tomas Hospital, G. R. No. L-6988, May 24, 1954; San Beda vs. CIR & N.L.U., 510 Off. Gaz. 5836; No. L-7649, Oct. 29, 1955; Quezon Institute, et al. vs. Velasco and Quezon Institute,, et al. vs. Paraiso, L-7742 & L-7743; Univ. of San Agustin vs. CIR, et al. No. L-12222, May 28, 1958). The petitioner-hospital is not only established and run for religious purposes, but it is also educational in the sense that it trains and educate nurses and charitable and benevolent because it offers free medical assistance to indigents. The fact that in the hospital, there is no separate place distinctly marked with the words "Free Ward", does not necessarily prove that the hospital was not giving free medical assistance or not admitting charity patients therein. Dr. Jutry testified that there was no such thing as "pay ward" and "free ward" in said hospital, as it was an institution organized on a non-profit basis, to help people as much as possible medically; that the hospital charged medical fees to patients who could afford to pay; partial medical fees to some; and free to many; so that the more fees it collected, the more free services it could render; that indigent patients who were admitted as charity cases, occupied the same ward with paying patients; their treatment, facilities and accommodations were the same. The hospital for the years 1952 to 1958 (7 years), had appropriated and actually spent around P890,855.68 for free service (Appendix B).

Respondent Court declared that petitioner hospital was a business concern because there is nothing in the evidence which showed that it incurred losses in its operation. The criterion advanced by the respondent court in determining whether or not an establishment is organized for profit or gain, is fallacious. The mere fact that an industrial or commercial enterprise had incur losses, does not follow as a consequence that it is not for profit or for gain, although it is established for such purpose; much in the same way that if a charitable institution gains on its operations, that it has become a business enterprise established for profit or gain. It has not been shown that the petitioner-hospital, a non-stock corporation, ever declared dividends to its members or that its property, effects or profit was used for personal or individual gain, and not for the purpose of carrying out the objectives of the hospital itself.

In the case of *Boy Scouts of the Philippine vs. Araos*, L-10091, Jan. 29, 1958, we have held:

"On the basis of the foregoing considerations, there is every reason to believe that our labor legislation from Commonwealth Act No. 103, creating' the Court of Industrial Relations, down through the Eight Hour Labor Law, to the Industrial Peace Act, was intended by the Legislature to apply only to industrial employment and to govern the relations between employers engaged in industry and occupation for purposes of profit and gain, and their industrial employees, but not to organizations and entities which are organized, operated, and maintained not for profit or gain, but for elevated and lofty purposes, such as, charity social service, education and instruction, hospital and medical service, the encouragement and promotion of character, patriotism and kindred virtues in the youth of the nation, etc." (See also *Univ. of San Agustin vs. CIR, et al.*, supra.)

It appearing that the petitioner Manila Sanitarium and Hospital is a purely charitable and educational institution, not established or operated for profit or gain, the same is not governed by the said Act, and the respondent Court has acted without jurisdiction and committed grave abuse of discretion and substantial error of law when it took cognizance of the case, subject of the petition.

Because of the conclusions reached, consideration of the other issues involved herein is deemed unnecessary.

The decision sought to be reviewed is reversed, without pronouncement as to costs, reserving to the respondent herein Fausto Gabuco, the right to file the appropriate action, in the proper Court.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Dizon, Regala and Makalintal, JJ., concur.

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