

**PHILIPPINE AMERICAN CIGAR & CIGARETTE FACTORY
WORKERS INDEPENDENT UNION (NLU), PETITIONERS, VS.
PHILIPPINE AMERICAN CIGAR & CIGARETTE MANUFACTURING
CO., INC., RESPONDENT.**

G.R. No. L-18364. February 28, 1963

Ponente: CONCEPCION, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/52f91d17d13e/>

CONCEPCION, J.:

Appeal by certiorari of petitioner Philippine American Cigar & Cigarette Workers Independent Union (NLU), from a decision of the Court of Industrial Relations dismissing a complaint of said petitioner for unfair labor, practice, and ordering respondent Philippine American Cigar & Cigarette Manufacturing Co., Inc. to reinstate Apolonio San Jose, within five (5) days from notice of said decision, without backpay. The pertinent facts are set forth in said decision from which we quote:

"Paragraph 3, sub-paragraph (a) of the complaint states:—

'a. That sometime on October 23, 1958, Apolonio San Jose's brother, Francisco San Jose, who is also a regular worker of the respondent and a member of the complainant union, filed a charge for unfair labor practice against herein respondent docketed as Case No. 1857—ULP of this Court, which case is still pending.

'b. That subsequent to the filing of the said charge, or on about November 29, 1958 and also on or about December 11, 1958, the respondent herein, by its manager Chue Yiong, summoned and advised union president Lazaro Peralta that if Francisco San Jose will not withdraw his charge against the company (Case No. 1857-ULP), the company will also dismiss his brother Apolonio San Jose, to which the union president replied that should not be the attitude of the company because Apolonio has nothing to do with his brother's case.

'c. That on or about January 24, 1959, respondent, by its officers and agents, did dismiss Apolonio San Jose without just and valid cause and in gross violation of the operative collective bargaining agreement between the complainant union and respondent corporation,'

"The allegations in said sub-paragraph (a), (b) and (c) of the complaint were substantiated by the oral testimony of complainants' witnesses, but the Court finds that such allegations do not constitute unfair labor practice acts on the part of respondent. In sub-paragraphs (a) and (b), the Court finds no interference, coercion and restraint against the employees in the exercise of their guaranteed rights to self-organization and discrimination against complainant Apolonio San Jose in regard to hire or tenure of his employment. In short, the complainants' charge is that if Francisco San Jose would not withdraw his unfair labor practice charge against respondent company, the manager of the latter would dismiss Apolonio San Jose, the brother of Francisco. In fact, said manager dismissed Apolonio San Jose. This may be an illegal or improper dismissal, but certainly, it does not constitute an unfair labor practice.

"The Court further finds that in sub-paragraph (c), complainants allege that the dismissal of Apolonio San Jose was in gross violation of the collective bargaining agreement between complainant union and respondent corporation."

The Court of Industrial Relations found "that the moving cause of Apolonio's dismissal was the refusal of his brother Francisco San Jose, to withdraw his charge of unfair labor practice against the company. But "—it added—" be that it may, it cannot constitute an actionable offense under the Act". Seemingly believing that, since the one dismissed by reason of said charge of unfair labor practice was, not the complainant therein, Francisco San Jose, but his brother Apolonio San Jose, the latter's dismissal does not constitute another unfair labor practice under Section 4 (a) (5) of Republic Act No. 875, which provides that:

"(a) It shall be unfair labor practice for an employer:

* * * * *

"(5) To dismiss, discharge, or otherwise prejudice or discriminate against an employee for having filed charges or for having given or being about to give testimony under this Act."

the lower court concluded that it had no jurisdiction to entertain the claim of petitioner herein. This conclusion is untenable.

Although subdivision (5) of paragraph (a) of said Section 4 would seem to refer only to the discharge of the one who preferred charges against the company as constituting unfair labor practice, the aforementioned subdivision (5) should be construed in line with the spirit and purpose of said Section 4 and of the legislation of which it forms part—namely, to assure absolute freedom of the employees and laborers to establish labor organizations and unions, as well as to prefer charges before the proper organs of the Government for violations of our labor laws. Now, then, if the dismissal of an employee due to the filing by him of said charges would be and is an undue restraint upon said freedom, the dismissal of his brother owing to the non-withdrawal of the charges of the former, would be and constitute as much a restraint upon the same freedom. In fact, it may be greater and more effective restraint thereto. Indeed, a complainant may be willing to risk the hazards of a possible and even probable retaliatory action by the employer in the form of a dismissal or another discriminatory act against him personally, considering that nobody is perfect, that everybody commits mistakes and that there is always a possibility that the employer may find in the records of any employee, particularly if he has long been in the service, some act or omission constituting a fault or negligence which may be an excuse for such dismissal or discrimination. Yet, such complainant may not withstand the pressure that would result if his brother or another member of his immediate family were threatened with such action unless the charges in question were withdrawn.

In fact, it is a well settled rule of law that what is prohibited to be done directly shall not be allowed to be accomplished indirectly. Thus in the Matter of Quidnick Dye Works Inc. and Federation of Dyers, Finishers, Printers and Bleachers of America (2 NLRB 963) it was held that the dismissal of a laborer on account of union activities of his brother constituted an unfair labor practice. To the same effect, substantially, are the decisions In the Matter of the Fashion Piece Dye Works Inc. and Federation of Silk and Rayon Dyers and Finishers of America, 6 NLRB p. 274, In the Matter of Ford Motor Company and H.C. McGarity, 26 NLRB, p. 322 which refers to the union activities of the wife of the discharged employee), and Union Asbestos & Rubber Co. and United Textile Workers of America, AFL, 98 NLRB p. 1055 (involving the dismissal of a female employee, due to the union activities of her husband). Hence, Teller in his work on Labor Disputes and Collective Bargaining (Vol. 2, p. 859), says:

"The discharge of relatives of an employee who has himself been discriminately discharged, for no other reason than the relation, is itself a discriminatory discharge, in violation of Sec. 8(3). of the Act. An illustration is Memphis Furniture Co. (3 NLRB 26 [1937], enforced 2 F2d 1018 [CCA 6, 1938], cert. den. 305 US 627, 59 S Ct 91, 83 L. Ed. 402 [1938]) where the evidence indicated that the sole reason for the dismissal of a female employee was that she was the wife of an employee who has been discharged. It was held that the discharge under the circumstances was discriminatory and a violation of the Act, even though discharged female

employee was not herself a member of any union. The Board said: 'The respondent thus made union membership and activities bar to the employment not only of the union member himself but of members of his family as well. A more effective mode of discouraging of union affiliation could hardly be found than the knowledge that such activities put not merely the union member's employment but that of those closely related to him in jeopardy. The direct cause of Mrs. Barmer's discharge was the fact that her husband had been discharged, but the indirect and antecedent cause was discrimination against union members in regard to hire and tenure of employment with intent to discourage membership in the Union'. So also the Board has held that the discharge of discriminatingly discharged employees' wives for the reason that the employer did not desire the employees to continue to live in the employer's house, which they would do so long as their wives remained employed, in itself a discrimination discharge in violation of the Act. (Mexia Textile Mills, 11 NLRB 1167 [1939], enforced 110 F2d 565 [CCA 5, 1940]). In Mansfield Mills, Inc. (3 NLRB 901 [1937] the respondent alleged that the wife of an employee who had been discharged allegedly in violation of the Act was herself discharged in consequence of a company rule requiring the dismissal of all members of the family when the head of the family is discharged. The Board said: 'Assuming this as the reason for Mrs. Sutton's discharge, we would necessarily find that she was the victim of discrimination in violation of the Act, if we determined that Sutton was discharged as the result of his union affiliation.'

"In the usual case, it is the wife who is the sufferer because of the husband's union affiliation. In I. Youlin and Company (22 NLRB No. 65 [1940], the husband was discharged for failure to secure his wife's resignation from the union. This was held violative of Section 8(3) of the Act."

In addition to violating Section 4(a) (5) of Republic Act No. 875, the discharge of Apolonio San Jose is, therefore, an unfair labor practice under subdivision (4) of said Section 4(a), which is the counterpart of Section 8(3) of the National Labor Relations Act (Wagner Act) of the United States.

Wherefore, the decision appealed from is hereby reversed, insofar as it dismisses the complaint of petitioner herein, and another one shall be entered finding respondent Philippine American Cigar & Cigarette Manufacturing Co., Inc. guilty of unfair labor practice and ordering said respondent to reinstate Apolonio San Jose, immediately after this decision shall have become final, with backpay. It is so ordered.

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

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.