

**BOBOK LUMBER JACK ASSOCIATION, PLAINTIFF-APPELLEE, VS.
BENGUET CONSOLIDATED, INCORPORATED, ET AL., DEFENDANTS,
BCI EMPLOYEES WORKERS UNION-PAFLU,
DEFENDANT-APPELLANT.**

G.R. No. L-24729. March 29, 1972

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

Appeal from the decision of the Court of First Instance of Baguio City dated November 23, 1964 in its Civil Case No. 1150. This case was considered submitted for decision without appellee's brief.

On May 26, 1955 the Benguet-Balatoc Workers Union, herein referred to as BBWU, which was then the collective bargaining agent of the rank and file workers of Benguet Consolidated, Inc., herein referred to as the Company, entered into a bargaining agreement with the latter, containing the following provision, among others, regarding union privileges:

"XIII. UNION PRIVILEGES.

C. 1. The company agrees to collect from all employees and workers in the COMPANY'S employ (exclusive of the employees and workers specified in the immediately preceding paragraph) in a collective bargaining unit for which the UNION has been or may be certified as the representative of said employees and workers in said unit, starting sixteen (16) days after the effectivity of this Agreement, weekly compensation in the amount of twenty-five centavos (P0.25) per week, for each calendar week in which the employees or workers have worked at least one 8-hour shift, such compensation being in payment of services rendered by the UNION as the certified exclusive representative of said employees and workers for collective bargaining purposes; provided, that such compensation shall not be deducted from any employee or worker who shall personally notify the COMPANY through his Department Head in writing within the fifteen (15) days immediately following the effectivity of this agreement that he refuses such representation by the UNION;"

On June 29, 1959, before the said bargaining agreement expired, BBWU and the Company extended its effectivity, with the following stipulation:

"XIV. UNION PRIVILEGES.

C. 4. As of the date of the execution of this Agreement and so long as the UNION continues to be the sole collective bargaining representative of all the employees and workers in the COMPANY'S employ in Acupan, Balatoc and Antamok and of such other bargaining unit or units within the COMPANY'S mining and other directly associated operations in the Sub-Province of Benguet, Mountain Province, wherein the UNION may hereafter be certified, the COMPANY agrees to continue to collect the weekly compensation provided for in items (1), (2) and (3) hereof; provided however, that should the UNION, for any reason whatsoever, cease to be the certified collective bargaining representative of the employees and workers in any or all of the above named bargaining units, the COMPANY's obligation herein to collect the weekly compensation in said unit or

units shall automatically cease; * * *"

On August 18, 1962 after a certification election was held in CIR Case No. 761-MC, the BCI Employees and Workers Union (appellant herein), was certified as the sole and exclusive bargaining representative of all the employees and workers in the Acupan, Balatoc and Antamok mine camps of the Company.

On September 15, 1962 the BObok Lumber Jack Association (appellee herein), one of the participating unions in CIR Case No. 761-MC, filed the instant case for "Declaratory Judgment with Preliminary Injunction," praying that judgment be rendered declaring that Benguet Consolidated, Inc. and herein appellant Union "cannot enter into an agreement continuing the modified union shop in the aforementioned collective bargaining agreement," and that a writ of preliminary injunction be issued to restrain the Company from making deductions of union compensation from the wages of its employees and workers in Acupan, Antamok and Balatoc and turning over such deductions to appellant Union. On the same date the lower court issued the writ of preliminary injunction prayed for in the complaint. In a supplemental order dated September 18, 1962, "newly hired employees or laborers or those who will be hired later on by the defendant company provided they have the standing written authority signed and thumbmarked by them and delivered accordingly to defendant company" were exempted from the operation of the aforesaid writ.

On September 27 and 28, 1962 the Company and appellant Union, respectively, filed motions to lift the preliminary injunction. At the hearing thereof the parties, thru their respective counsel, mutually agreed that the Company resume deducting union compensation from all employees, the same to be held in trust for disposition as the court might later on direct in its resolution on the motions to lift the preliminary injunction. Pursuant to said agreement the lower court issued an order on September 28, 1962, the dispositive portion of which reads:

"WHEREFORE, finding the agreement of the parties made in open court in order, the Court approves the same and hereby orders that, effective beginning the work week of September 23, 1962, the Company resume making deductions of union compensation from all employees heretofore paying to the Benguet Balatoc Workers Union as well as from newly hired employees, but to hold the same in trust to be disposed of in the manner that this Court may direct in its resolution on the motions to lift the preliminary injunction."

In two separate motions dated September 30 and November 7, 1962 appellant Union moved to dismiss the complaint on three grounds, namely: (1) that the cause of action was barred by prior judgment; (2) that the complaint stated no cause of action; and (3) that the plaintiff had no legal capacity to sue. These two motions were denied in an order dated September 28, 1964.

On October 18, 1962 and October 7, 1964 the Company and appellant Union filed their answers, respectively. Meanwhile, sometime in October 1962 BBWU filed a complaint in intervention, which was admitted by the Court, praying that the weekly deduction of P0.25 from the wages of its members, being without their consent, be declared illegal and thereafter enjoined. After trial, the lower court rendered its decision dated November 23, 1964, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing considerations, as it would appear that neither the Benguet Balatoc Workers Union nor the BCI Employees Workers Union-PAFLU is entitled to the weekly union compensation collected by the defendant company during the period of September 2, 1962 thru September 12, 1964, both dates inclusive, now in the aggregate amount of P90,183.25, the defendant Company is hereby ordered to return as soon as practicable, upon this judgment having become final, to each of its individual employees and workers the respective aggregate amount deducted from their weekly wages or salaries as weekly union compensation, covering the period from September 2, 1962 to September 12, 1964, both dates inclusive; without pronouncement as to costs."

In resolving the issue of whether or not the collection of union dues and/or union compensation by the Company after BBWU ceased to be the bargaining agent by reason of the certification issued in favor of the BCI Employees and Workers Union was justified, a number of circumstances should be taken into consideration.

(1) Under the 1955 bargaining contract the deduction of a "weekly compensation" of P0.25 from the pay of each employee was authorized, but subject to the right of such employee to refuse representation by the Union (BBWU) and thus veto the deduction by properly notifying the Company to that effect within fifteen (15) days following the effectivity of the contract.

(2) When the said contract was renewed by the same parties in 1959 the provision concerning the Union compensation was continued, but with two provisos; namely: (a) with respect to those employees and workers who had not theretofore been paying Union compensation the Company could collect the same only upon their written authority; and (b) with respect to persons who might thereafter be engaged by the Company, they should, before entering their employment, "sign an authorization for check-off of Union compensation."

(3) Implicit in the different provisions both of the 1955 and 1959 contracts was the understanding that the collection by the Company of the Union compensation was for the benefit of the then bargaining agent, that is, BBWU. Thus in the 1955 contract (subsection XIII-C) "such compensation (was) in payment of services rendered by the UNION as the certified exclusive representative of said employees and workers for collective bargaining purposes." In accordance with this provision the 1959 contract stipulated that during its effectivity or any extension thereof "and as long as the UNION remains the certified exclusive representative of all the employees and workers * * * the Company will continue to collect UNION compensation * * * " And it was further provided "that should the UNION, for any reason whatsoever cease to be the certified collective bargaining representative * * * the COMPANY's obligation herein to collect the weekly compensation * * * shall automatically cease."

It is clear from the foregoing that the agreement concerning the Company's obligation to deduct Union compensation from the pay of the workers was for the benefit of BBWU alone; that the consent of the workers as to such compensation was given primacy – either by giving those who had already been paying it prior to the 1955 agreement the right to express their refusal to continue doing so within fifteen (15) days of the effectivity of said agreement, or, pursuant to the 1959 contract, by requiring written authorizations from workers who had not been paying theretofore as well as from workers to be employed thereafter, as to whom such authorization was made a condition for their employment; and that in any event the Union compensation clause automatically expired when BBWU ceased to be the collective bargaining agent as a result of the certification election held in 1962.

Noteworthy in this connection is the text of the check-off authorization required of new employees in the 1959 contract, as follows:

"As a condition precedent to my employment, I hereby execute this Check-off authorization, authorizing you to deduct from wages or salary due me for each calendar week in which I have worked at least one eight-hour shift the sum of twenty-five centavos (P0.25) for UNION compensation in payment of services to be rendered by the Benguet Balatoc Workers Union as the certified exclusive bargaining representative of all the employees and workers in the unit where I am being employed. I hereby authorize you also to deliver the said sum to the person who is authorized to receive such sums by the Benguet Balatoc Workers Union.

"Being a condition precedent of my employment, I agree not to cancel this authorization for the duration of my employment with you."

All the foregoing circumstances notwithstanding, it cannot be denied that insofar as the Company's employees and workers who are members of appellant Union are concerned, neither the Bobok Lumber Jack Association nor

intervenor BOWU has the right to represent or speak for them. If they had any objection to the collection of dues by the Company for the benefit of their own union, as the certified collective bargaining agent, they should have raised such objection in this case. Their failure to do so is an implied acquiescence or consent. Indeed, as posed by appellants in their brief, without any manifestation of disagreement by the other parties, "the only question that needs to be resolved is the legality of the collection of 'union compensation' from non-members, that is, from the workers who do not belong to the BCI Employees and Workers Union (PAFLU), the defendant Union in this case."

WHEREFORE , the judgment appealed from is modified in the sense that only the dues so far collected by appellant Company from its workers and employees who are not members of appellant Union and who have not otherwise expressly authorized such collection should be returned to them, as directed in said judgment. No pronouncement as to costs.

Concepcion, CJ., Reyes, J.B.L., Castro, Fernando, Barredo, Villamor, and Makasiar, JJ., concur.

Zaldivar and Teehankee, JJ., took no part.

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