

**PAMPANGA SUGAR DEVELOPMENT CO., INC., PETITIONER, VS.
SUGAR WORKERS' ASSOCIATION AND COURT OF INDUSTRIAL
RELATIONS, RESPONDENTS.***G.R. No. L-31047. February 27, 1974*

Ponente: ESGUERRA, J.

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During the 1955-1956 milling season, the members of respondent Sugar Workers Association (SWA for short) declared a strike against the petitioner, Pampanga Sugar Development Co., Inc., (Pasudeco for short). The dispute was certified on November 23, 1956, by the President to the Court of Industrial Relations (CIR for short) where it was docketed as Case No. 13-IPA. The jurisdiction of the CIR was challenged by the petitioner but this Court upheld its jurisdiction and the validity of the certification in G.R. No. L-13178, March 25, 1961; 1 SCRA, p. 771.

On November 7, 1961, the CIR, pursuant to Sec. 19, of Commonwealth Act 103 empowering it to order the return to work of the strikers when "the dispute cannot, in its opinion, be promptly decided and settled", issued an Order directing the return of the strikers to their work. Pasudeco filed a motion for reconsideration of said Order but on September 25, 1962, the CIR en banc affirmed the said Order, at the same time directing the parties to maintain the status quo "obtaining as of the date the strike in question was declared". This resolution of September 25, 1962, partly reads as follows:

"this Court is of the opinion that pending determination of the legality of the strike, the status quo between petitioner and respondent obtaining as of the date the strike in question was declared, should be maintained."

Pursuant to the above-quoted directive of the CIR en banc, the hearing of the strike case started on December 11, 1962, followed by more hearings for the implementation of the resolution of September 25, 1962, for the return to Work of the strikers but maintaining the status quo. Notices of hearings were not only given to the parties but made known to all concerned so that the strikers could appear and manifest to the Court their desire and/or ability to return to work. Continuous, almost daily, hearings were held and many strikers appeared, but others failed to do so despite notice and efforts by the SWA officials to bring them to Court as ordered by then Presiding Judge Jose S. Bautista. After a long and laborious effort on the part of the Presiding Judge to have the strikers return to work, he issued four (4) Orders, dated February 28, 1963, March 29, 1963, June 17, 1963, and December 28, 1963, directing the readmission of a total of 130 out of 239 strikers.

As to the rest of the strikers, the CIR in its Order of October 14, 1963, declared the 8 strikers named therein to have abandoned their work because they were gainfully employed elsewhere, as admitted by the SWA itself. In an Order dated November 13, 1963, the CIR deferred resolution of the question of reinstatement of 12 strikers alleged therein to be of old age in order to give the parties an opportunity to settle the same among themselves. Likewise, in the Order of December 9, 1963, the CIR deferred the readmission of the 62 strikers convicted by the Municipal Court of San Fernando, Pampanga until such time as the Court of Appeals shall have decided their appeal. With the number of strikers referred to in all the Orders aforesaid, plus 6 strikers admitted by the parties to

be already dead, it resulted that of the 239 strikers, 219 were duly accounted for. On the remaining 20 strikers, Pasudeco claimed that they were already gainfully employed elsewhere. In its "Report and Motion" filed in Case No. 13-IPA on January 19, 1963, Pasudeco named 9 strikers to have gained employment elsewhere, to wit:

1. Fortunato Asuncion — Laborer in the Bureau of Public Works Motor Pool.

2. Celestino Canlas

—

Farmer in Mexico, Pampanga.

3. Prudencio Cunanan

—

Sweeper in the public market of San Fernando, Pampanga.

4. Jesus Galang

—

Cochero or rig driver.

5. Felix Nicdao

—

Cane cutting contractor.

6. Victor Olalia

—

AC Jeep driver.

7. Cenon Palo

—

Farmer in Bacolor, Pampanga.

8. Amado Reyes

—

Dried Fish Vendor; and

9. Lucilo Wyco

—

AC Jeep driver.

Aside from the 9 strikers named above, 11 other strikers were mentioned in said "Report and Motion" to have gained employment elsewhere, but these 11 strikers are not involved in the present case.

With the foregoing backdrop (See Annex A of Petition), the following is the chronology of subsequent Orders and

proceedings that led to the filing of the instant petition for certiorari:

On January 29, 1965, the CIR, through then Presiding Judge Arsenio Martinez *motu proprio*, issued an Order in Case No. 13-IPA declaring that "unless shown that they are no longer interested in their former jobs or are really employed elsewhere, said nine (9) strikers named above should be reinstated with back wages."

Within the reglementary period, Pasudeco filed a motion for reconsideration en banc of the Order dated January 29, 1965, on the ground that it is contrary to the previous rulings of then Presiding Judge Bautista who was authorized by the Court to hear all pending cases related to the strike in question, and that it tended to alter the final and unappealable Orders of said Judge, especially where the strikers had not presented themselves in Court to claim for their reinstatement.

On September 1, 1966, resolving petitioner's motion for reconsideration, the CIR issued a resolution en banc which ruled that "to settle this once and for all, said nine (9) workers through petitioner union are hereby ordered to show cause within fifteen (15) days from notice hereof why their failure to report for work should not be considered an abandonment on their part to be restored to their former jobs with respondent company." (*Italics supplied*)

On October 1, 1966, SWA received copy of the resolution en banc of September 1, 1966. The 15-day period to show cause expired on October 16, 1966, but the SWA failed to do as required. The 9 strikers never appeared to indicate their willingness to return to work.

On October 29, 1966, Pasudeco filed a motion to declare the 9 strikers as having abandoned their employment.

On December 15, 1966, an order was issued by Judge Salvador declaring the 9 strikers to have abandoned their employment and, therefore, not entitled to backwages.

After receiving the Order dated December 15, 1966, SWA did not file any motion for reconsideration thereof, but under date of December 29, 1966, it filed a petition to reopen, wherein it was prayed that the Order of September 1, 1966, be enforced.

On January 7, 1967, Pasudeco filed its "Answer and/or Opposition" thereto, pointing out that the 9 strikers cannot claim any right to reinstatement and backwages as no such right was granted by the Order of September 1, 1966, which only required them to show cause as above stated and, consequently, there was nothing to enforce.

The petition to reopen was filed by the SWA and not personally by the 9 strikers declared to have abandoned their employment. There is also no showing that the 9 strikers ever presented themselves to the company to claim readmission to work.

On March 11, 1968, Judge Salvador issued an Order denying the petition to reopen for lack of merit.

On March 23, 1968, SWA filed a motion for reconsideration en banc of the Order of March 11, 1968, and on March 27, 1968, Pasudeco filed its opposition thereto.

On July 9, 1969, the CIR en banc, by a 3 to 1 vote, issued a resolution reconsidering the Order of March 11, 1968, as well as the Order of December 15, 1966, and declaring that the 9 strikers "should be immediately returned to their former work at the Pampanga Sugar Development Co., Inc." Judge Bugayong penned the Resolution, concurred in by Judges Tabigne and Paredes. Judge Salvador dissented and sustained the Order of March 11, 1968. Presiding Judge Martinez took no part.

Pasudeco filed the present petition for certiorari, praying that the CIR resolution en banc of July 9, 1969, be set aside for being contrary to law as it alters the order of September 1, 1966, which had previously become final and

unappealable. It asks this Court:

- To affirm the order dated December 15, 1966, issued by Judge Joaquin Salvador, declaring the nine (9) strikers above-named as having abandoned their employment and, therefore, not entitled to reinstatement and back wages;
- To affirm the order of the said Judge dated March 11, 1968, denying SWA's petition to reopen the question of reinstatement and back wages.

In its brief, petitioner claims that the CIR erred in:

I.

ALTERING THE RESOLUTION EN BANC OF SEPTEMBER 1, 1966, WHICH ORDERED THE RESPONDENT ASSOCIATION TO SHOW CAUSE WITHIN FIFTEEN (15) DAYS FROM NOTICE WHY THE FAILURE OF THE NINE (9) STRIKERS TO REPORT FOR WORK SHOULD NOT BE CONSIDERED AS ABANDONMENT ON THEIR PART TO BE RESTORED TO THEIR FORMER JOBS WITH THE PETITIONER, THE SAID RESOLUTION EN BANC HAVING LONG BECOME FINAL AND EXECUTORY WITHOUT ANY MOTION FOR RECONSIDERATION OR APPEAL INTERPOSED BY THE RESPONDENT ASSOCIATION.

II.

RECONSIDERING THE FINAL AND UNAPPEALABLE ORDER OF DECEMBER 15, 1966, WHICH DECLARED THE NINE (9) STRIKERS TO HAVE ABANDONED THEIR EMPLOYMENT WITH PETITIONER COMPANY AND, THEREFORE, NOT ENTITLED TO ANY BACK WAGES.

III.

IN RECONSIDERING THE ORDER DATED MARCH 11, 1968, WHICH DENIED RESPONDENT SUGAR WORKERS ASSOCIATION'S PETITION TO REOPEN.

It was beyond the bounds of sound discretion for the CIR to have ordered by its resolution of July 9, 1969, that the nine (9) strikers involved be immediately returned to their work in Pasudeco with back wages. These workers never presented themselves to the Company nor signified, even up to the present, their desire to be readmitted to work despite the various notices to that effect sent to them and to the union. The petition to reopen was filed by the union itself instead of the nine (9) workers and in said petition the SWA never alleged that the nine (9) strikers were interested in returning to their work; that they presented themselves to the petitioner personally and were refused admission upon claiming their positions. Of course, it is understandable why the union itself filed the petition for reinstatement and back wages without the intervention of said strikers. These nine (9) strikers had already gained lucrative employment elsewhere and do not care to return to their old jobs, so that even if they were not reinstated, provided they are given back wages, their union would greatly benefit from such a situation. But the interval of time that had elapsed since the order to return to work was issued up to the time when the same was resuscitated by the said resolution of July 9, 1969, is unduly long and this circumstance cannot but be clearly construed to mean that the nine (9) strikers are no longer interested to return to their work and have renounced it.

It should be noted that the resolution of July 9, 1969, revived the order of Judge Martinez dated January 29, 1965, issued *motu proprio* by him or without any motion from either the union or the nine strikers themselves. But this order of January 29, 1965, was superseded by the resolution en banc of the CIR dated September 1, 1966, which ordered the nine striking employees to show cause within 15 days from notice thereof why their failure to report for work should not be considered as an act of abandonment of their employment with the Company. The order of

January 29, 1965 had no longer any binding force as it was practically set aside by the order of September 1, 1966, which ordered the said strikers to show cause why they should not be considered as having abandoned their work. If they were still connected with the company and were entitled to reinstatement and back wages, there was no logical reason for ordering them to justify their further connection with their former employer.

Again the order of Judge Martinez dated January 29, 1965 and the resolution en banc of the CIR of July 9, 1969, which is assailed in this action, give no starting point for the computation of the back wages to be paid to the nine (9) strikers. It could not give any reckoning point because these nine (9) strikers did not at all signify their determination that they were willing to return to work, and when they wanted to start working anew. To award back wages to them would be simply giving an indefinite and uncertain right which cannot be implemented, the time of inception of such right being incapable of precise ascertainment under the circumstances.

The CIR resolution en banc of July 9, 1969, after the lapse of almost 3 years cannot alter the previous order of September 1, 1966, which superseded the order of January 29, 1965, regarding payment of back wages and reinstatement. The resolution of September 1, 1966, which ordered the said strikers to show cause why they should not be considered as having abandoned their employment, had long become final. Nor did it positively give them any right to claim for back wages and reinstatement. This order cannot, therefore, be modified or altered so as to give what it did not. To modify or alter the same now would be throwing overboard the stability of judicial and administrative determination of the rights of parties to a proceeding or controversy. To expose such determination or decision to the risk of being reopened or set aside any time would simply make the decisions and determinations of administrative bodies affecting private rights and rendered by them in the exercise of their quasi-judicial jurisdiction, a mockery and a farce. It is simply against the policy of the law to make them hang on the precipice of precariousness and insecurity. When a judgment has become final because the period of appeal therefrom has expired and no appeal has been perfected, the judgment can no longer be vacated or amended and the court loses its control over the same, except to order its execution (*Arnedo vs. Llorente*, 18 Phil. 257; *Anuran vs. Aquino*, 38 Phil. 29, 34; *Veluz vs. Justice of the Peace of Sariaya*, 42 Phil. 557; *PNB vs. De la Vina*, 46 Phil. 63; *Contreras vs. Felix*, 78 Phil. 570; *Ebro vs. Canizares*, 71 Phil. 152).

The resolution of September 1, 1969, was received by the respondent SWA on October 1, 1966. The 15-day period for appealing therefrom expired on October 16, 1966. The SWA did not, during said period, either appeal or comply with the said order by showing why the nine strikers failed to report for work and why they should not be considered as having abandoned their employment with the Company. Their failure either to appeal or to comply with the said order, together with the uncontradicted claim of the petitioner that they have secured employment elsewhere, fully justifies the order of December 15, 1966, issued by Judge Joaquin Salvador declaring that they have abandoned their employment and, hence, are not entitled to reinstatement and back wages. The resolution en banc of the CIR of July 9, 1969, was issued in grave abuse of discretion and should be nullified.

WHEREFORE, the order of July 9, 1969, is hereby nullified and set aside. The order of December 15, 1966, declaring the nine strikers involved to have abandoned their work and, hence are not entitled to reinstatement and back wages, as well as the order of March 11, 1968, denying their petition to reopen that question, is hereby revived and upheld.

No special pronouncement as to costs.

Makalintal, C.J., Castro, and Muñoz Palma, JJ., concur.

Teehankee, J., concurs in the result.

Makasiar, J., reserves his vote.

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