

**SANTIAGO LABOR UNION ALIAS MAGAT LABOR UNION,
PETITIONER, VS. HON. EMILIANO TABIGNE, KING HONG &
COMPANY AND SANTIAGO RICE MILL, RESPONDENTS.**

G.R. Nos. L-21028-29. May 27, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is a petition for mandamus to compel Judge Emilio Tabigne of the Court of Industrial Relations—

"* * * to resolve the motions for execution, deposit or bond and to issue the Writ of Execution unless the respondent KING HONG &, COMPANY shall file a bond in an amount to be determined by this Court to insure compliance with the award. * * *."

The motions (there were five in all) referred to were filed in connection with the decision of the court en bane which awarded overtime pay, premium compensations and back wage³ to members of the petitioning union. This decision was subsequently affirmed by this Court in the case of Santiago Rice Mill vs. Santiago Labor Union, G. R. No. L-18040, August 31, 1962.

It is averred that the respondent judge has failed and refused to act on these motions and that in the meantime the respondents, "taking advantage of the unlawful failure and refusal of the respondent judge to order the issuance of the writ of preliminary attachment and/or execution, of order the deposit or bond, have disposed of and may dispose of all their properties, to the irreparable damage and prejudice of the petitioners."

The sole issue for resolution in this incident, therefore, is whether mandamus should issue or not. The Court believes that it should not.

While the Supreme Court can compel the respondent judge to act on the motions filed by the union, it may not direct him to decide the same in a particular way because the resolutions on the said motions involve the exercise of discretion. The law concedes to judges and courts the right to decide questions according to their own, judgment and their understanding of the law and if their decision in that regard is not correct or contrary to law, appeal, not mandamus, is the remedy. (Lupisan vs. Alfonso, 78 Phil. 842; De Castro vs. Court of Appeals, 75 Phil. 824; Morada vs. Caluag, et al, G.R. No. L-18055, August 31, 1962.) In the case at bar, the petitioner seeks to have the aforementioned motions resolved in its favor, a relief clearly irreconcilable with the doctrine expressed in the cases cited.

Neither may this Court agree to the allegation that the herein respondent judge had abused his discretion in the incident at bar. In the first place, the decision prayed to be executed did not fix the various amounts due for overtime pay, premium compensation and back wages. The same respondent, therefore, ought first to have the same ascertained or fixed. He did precisely this when on Sep1-tember 5, 1962 he directed a court examiner to determine the said amounts. Secondly, the court in fact issued an order on March 30, 1963 requiring the respondents to deposit P100,000.00 and to post a surety bond for the same amount to guarantee the payment of

whatever obligations might eventually be found owing to the members of the union. To be sure, then, it had taken such measures as would have afforded full protection to the petitioner's interest.

In view of all the foregoing, the writ prayed for is denied. Costs against the petitioner.

Bengzon, C.J., Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, Dizon, Makalintal, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

Writ denied.

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