

PHILIPPINE LAND-AIR-SEA LABOR UNION (PLASLU) AND/OR JESUS STA. IGLESIA AND 6 OTHERS, PETITIONERS, VS. SY INDONG COMPANY RICE & CORN, MILL AND/OR LU CHINTONG AND TUBOD LABOR UNIO...

G.R. No. L-18476. May 30, 1964

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by certiorari from a resolution of the Court of Industrial Relations en banc, modifying a decision of a trial Judge thereof.

On August 17, 1955, the Philippine Land-Air-Sea Labor Union (hereinafter referred to as the PLASLU) and Jesus Sta. Iglesia, Filemon Balansag, Doring Manulat, Claudio Rimocaldo, Antonio Taray, Matias Gabin and Comoso Gabin, filed with the Court of Industrial Relations, Gebu Branch(hereinafter referred to as the CIR), the complaint here-in, against "Sy Indong Company Rice and Corn Mill and/or Lu Chintong" (hereinafter referred to as Sy Indong), and "Tubod Labor Union" (hereinafter referred to as the TLU) "and/or Diego Palomares, Rosario Sambrano" (who are president and vice-president of the TLU) "and others un-known". The complainants charged these respondents with unfair labor practices, in that on or about April 18, 1955, respondent Sambrano, as officer of the TLU, together with other members thereof, had restrained and coerced the members of the PIASLU, particularly complainants Sta. Iglesia, Balansag, Rimocaldo, Manulat, Taray and the Gabins (hereinafter referred to as employees), by intimidating and threatening them with bodily harm unless they gave up their jobs as workers or laborers of Sy Indong, in its rice and corn mill in Tubod, Lanao del Sur - by reason of their PLASLU affiliation, and that Sy Indong discriminated against them by refusing to admit them to work, when they reported for duty, on account of their aforementioned affiliation. Complainants prayed, therefore, that the respondents be adjudged guilty of unfair labor practice, and sentenced accordingly, as well as ordered to cease and desist from such practice and to" reinstate said employees with backwages.

Sy Indong filed an answer admitting the formal allegations of the complaint, that PLASLU is a legitimate labor organization and that the aforesaid employees are members thereof, and alleging that it has no knowledge or information sufficient to form a belief as regards the activities of the TLU and respondent Rosario Sambrano. It, moreover, denied having discriminated against said employees, and alleged that Sta. Iglesia had verbally resigned from his employment and refused to work despite repeated demands of Sy Indong; that Palomares and Taray had not been refused reemployment and were in fact working with Sy Indong; and that the two Gabins and Palomares had merely failed to report for work, without giving notice of their intent to terminate their employment. Respondents TLU and Rosario Sambrano and Diego Palomares, in turn, filed an answer denying the main allegations of the complaint.

The record further shows that, on February 4, 1957, Sy Indong sold its assets in Tubod, Lanao del Sur, to Sen Chiong Rice & Corn Mill Co. (hereinafter referred to as Sen Chiong), which was organized on the same date, in

view of which an amended complaint was filed including Sen Chiong and its manager Ang Han Tiong as respondents, upon the ground that Sen Chiong and Sy Indong are one and the same entity. Respondents filed their respective answers to this amended complaint. Subsequently, the case was called for trial, in the course of which complainants introduced the testimony of Jesus Sta. Iglesia, Claudio Rimocaldo and Filemon Balansag, and some documentary evidence. Similarly,, respondents presented testimonial and documentary evidence, and, in due course thereafter, the Presiding Judge of the CIR, Honorable Jose S. Bautista, rendered a decision dated November 14, 1960, finding that the acts of unfair labor practice charged by the complainants "were duly supported by evidence" and that the transfer or assignment of the Tubod branch of Sy Indong to Sen Chiong had been made in order that Sy Indong could evade the liability that might arise from the present case. Accordingly, the dispositive part of said decision reads:

"WHEREFORE, the partners of the Sy Indong Rice and Corn Mill Company, namely: Ang Han Tiong, ACR No. 236241 Iligan Aug. 11, 1950; Sy Seng Chiok, ACR No. 236231 Iligan Aug. 10, 1950; Yao Pee, ACR No. 236239 Iligan Aug. 11, 1950; Ching Chin Chay, ACR No. A-61888 Manila July 18, 1950; Dy Tiong, ACR No. A-147509 Tubod Nov. 22, 1950; Sy Chun Su, ACR No. A-71807, Mandawe, Jan. 12, 1951; Tiu E Teck, ACR No. JA-157906 Iligan, Oct. 9, 1950; Tan Chun Sing, ACR No. A-147517 Tubod Dec. 5, 1950; Sy Chiong Ing, ACR No. A-157901 Iligan Oct. 9, 1950; and Go Phil, ACR No. A-157904, are hereby ordered:

"1. To pay backwages to the complainants, namely: Jesus Sta. Iglesia, Claudio Rimocaldo, Filemon Balansag, Doring Manulat, Antonio Taray, Matias Gabin and Composo Gabin from the date of their dismissal on April 18, 1955 up to February 3, 1957;

"2. To offer reinstatement to all the complainants, except Filemon Balansag, on the date when it will reopen the partnership.

"For the Sen Chiong; Rice and Corn Mill Company:

"3. The Sen Chiong Rice & Corn Mill Company is liable to pay backwages of the complainants aforementioned from February 4, 1957 until they are actually reinstated;

"4. The Sen Chiong Rice and Corn Mill Company shall offer reinstatement to the complainants aforementioned, except Filemon Balansag, within five (5) days from receipt of this Order under the same terms and conditions of employment they had in the Sy Indong Rice and Corn Mill Company with rights of seniority;

"5. To publish a copy of this Order for a period of sixty (60) days to be posted at the main gate of the company and to prevent it from effacement and destruction by elements;

"6. To report to this Court through an affidavit duly sworn to by the management that it has complied with this particular order."

On motions for reconsideration filed by Sy Indong and Sen Chiong, the CIR, in a resolution approved by three members thereof, with the dissent of its presiding judge (its fifth member having taken no part), decreed the reversal of the decision of the trial Judge insofar as it directed: (1) the reinstatement, with backwages, of Doring Manulat, Antonio Taray, Matias Gabin and Composo Gabin; and (2) Sen Chiong Rice & Corn Mill Co., to reinstate the complainants with backwages from February 4, 1957, until their actual reinstatement. Hence, this petition filed, by the complainants, for review by certiorari of said resolution of the CIR en banc.

The latter reversed the decision of the trial Judge as regards the reinstatement with backwages of Manulat, Taray, and the Gabins, upon the theory that this is not a class suit; that, "consequently, it is necessary and imperative that they should personally testify and prove the charges in the complaint"; and that, having failed to do so, the decision of the trial Judge in their favor is untenable, under the rule laid down in *Dimayuga vs. CIR*, 101 Phil., 590.

We do not share the view taken in the resolution appealed from. As the trial Judge correctly said, in his dissent from said resolution:

"The majority has cited the doctrine in *Dimayuga vs. CEPOC* case, G.R. No. L-10213, promulgated 27 May 1957. The salient feature of this decision is to the effect that there is no class suit because the complainants were not so numerous and nothing in the pleadings was stated to that effect. It should be noted that this case was filed on March 24, 1952 by the individual complainants without any union involved. This was before the effectivity of Republic Act No. 875. During the hearing counsel for complainants never manifested that it was a class suit, except in the final phase of the hearing when his authority as counsel for the 82 complainants was questioned by respondent. As a matter of fact, 14 complainants had disauthorized him so that the Court was forced to compel him to show his authority. Counsel having failed to produce the individual authorities of the respondent in his favor, resorted to the expediency of manifesting that he was filing the case in a nature of class suit.

"Now, in the case at bar there could be no comparison with *Dimayuga* because the instant case was filed by the union. The legitimacy of the union (PLASLU) was duly proven and that counsel who was at the same time president of the union was not questioned in his authority in appearing in behalf of the complainants. The complaint shows that this was filed by the union with the complainants as its members. There was no instance where respondent had questioned the authority of counsel to appear in behalf of the complainant members, nor was there an objection to the filing of the case in behalf of the union.

"This Court has its inherent power to determine the feasibility of the facts presented objectively in order to arrive at a decision without resorting to technicalities both in procedure and evidence. If it feels that there is no necessity of requiring other complainants to testify due to the fact that their testimony has been already covered by their co-complainants, then it could stop the presentation of the rest. Rule 123, Section 99 of the Rules of Court provides:

Power of the court to stop further evidence.- The court may stop the introduction of further testimony upon any particular point when the evidence is already so full that more witnesses to the same point cannot be reasonably expected to be additionally persuaded. But this power should be exercised with caution.'

"Under the above citation, I am of the opinion, that there was no need of deliberating on the testimony of other witnesses for reasons stated, *supra*.

"The majority view seems to convey a policy that in unfair labor practice cases all the complainants should testify, for it has no segment of being a class suit. I believe that if this procedure is adopted time will come when this Court will be fully loaded with unfinished cases because it is common knowledge that in unfair labor practice cases there are more complainants involved than in ordinary ones. Moreover, the determination of the evidence presented under the theory of non-class suit that all witnesses should testify would be resorting to technicalities of procedure. It is for this matter that Congressional intention has been well expressed in Republic Act 875 that this Court should not resort to technicality in procedure as well as in evidence. Parenthetically, even non-members of the Bar can handle a case in this Court because of the simple procedure allowed by the law. While it is true that labor cases may drag for quite a time due to numerous complainants involved, yet, the cardinal rule of non-delay indisposition of cases is always adhered to substantially. Thus the requirement of all complainants to testify is not in keeping with the same facts.

"I want to point out that in the *Kapisanan ng mga Manggagawa sa Magdalena Estate, Inc. (NAFLU) vs. Magdalena Estate, et al.*, Case No.1616-ULP, out of 19 complainants only four testified. The trial court in its finding of unfair labor practice was sustained by the court en banc although not all claimants had testified yet all were awarded back wages. Majority of my colleagues had shared my view on this point. There is a strong similarity between the case now under consideration because of the seven or eight complainants only four

testified. Although I do not question the prerogative of each judge to change his stand one very case that comes within his consideration but under similar facts involved justice demands that this Court should be consistent."

Again, the decision of the trial Judge adverse to Sen Chiong was reversed by the CIR en banc, upon the ground that no unfair labor practice by Sen Chiong is alleged in the amended complaint; that there is no evidence that Sy Indong and Sen Chiong are one and the same entity; that the two companies have separate and distinct juridical personalities; and that the fact that Ang Han Tiong and Tiu E Tek are partners of the two companies and that Ang Han Tiong is the manager of both does not suffice "to tie up one partnership with the other."

Upon a review of the record, we are inclined to sustain the conclusion of the trial Judge. Indeed, as set forth in His Honor's decision, and the Resolution appealed from does not deny it:

"The management, in making their union busting air-tight, dissolved their partnership without any reason at all although its existence is for 20 years per Article of Partnership of Ang Han Tiong & Company, doing business in the name of Sy Indong Company (Exhibit 'E-1'). Alfredo Que, in his testimony, alleged that the Sy Indong Company was bankrupt, but nowhere in the records was there any declaration of bankruptcy made by a competent court pursuant to the provisions of the Code of Commerce. On the contrary, the manager, Tan Chun Seng Tiong declared that as manager of the Sy Indong Company he owned P20,000.00 worth of shares and that his shares of stocks increased a little when he withdrew it. (t.s.n., Vol. II, p. 32, Hearing of August 15, 1958). The alleged bankruptcy, therefore, of the company as pictured by Alfredo Que is absurd. Otherwise, the manager could not have withdrawn with an increased shares in stocks if the company was really bankrupt."

Moreover, Sen Chiong was organized on the very same day on which the assignment thereto of the assets of Sy Indong in Tubod took place, and Ang Han Tiong the managing partner of Sy Indong is the same managing partner of Sen Chiong. Again, Tiu E Tek is, likewise, a partner of both enterprises. These circumstances, when considered in relation to the fact that the present unfair labor practice case had been pending in the CIR for about 18 months prior to February 4, 1957, lead to no other conclusion than that the organizers of Sen Chiong were aware of said case when they established the company and acquired the assets of Sy Indong in Tubod, and that they either organized Sen Chiong in an attempt to relieve Sy Indong of the consequences or effects of the present litigation, or acquired said assets assuming the risk of having to bear the liabilities or part of the liabilities that said litigation may eventually entail. In either case, the trial Judge was justified in rendering judgment against Sen Chiong. (Majestic and Republic Theaters Employees' Association vs. CIR, L-12607, February 28, 1962; *Kopel vs. A.L. Yatco*, 77 Phil., 496; 43 Off. Gaz., 4604; *Detective Protective Bureau vs. United Employees Welfare Association*, 98 Phil., 572; 52 Off. Gaz., 7288.)

WHEREFORE, the resolution appealed from is hereby reversed and the decision of the trial Judge dated November 14, 1960 is affirmed and reinstated in toto, with the costs of this instance against the respondents. It is so ordered.

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

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