

ASSOCIATION OF BEVERAGE EMPLOYEES (MISSION, IMPERIAL & GOODY ROOTBEER CHAPTER) AND MANUEL F. VIOLAGO, EDGARDO NICOLAS, BONIFACIO C. PEREZ, ALFONSO SAN DIEGO AND PATRICIO GARCIA,...

G.R. No. L-4813. May 28, 1952

Ponente: TUASON, J.

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TUASON, J.:

This is an appeal from a decision of the Court of First Instance of Manila dismissing the appellants' petition for certiorari. The petition had for its object the setting aside of the revocation by the Secretary of Labor of a temporary registration permit previously granted to the petitioners "in view of the findings and recommendationsof the Chief of Constabulary concerning the subversive activities of the said union."

For background, it may be stated that Manuel F. Violago on July 24, 1950, filed an application with the Department of Labor for registration of the Association of Beverage Employees, Mission, Imperial and Goody Rootbeer Chapter, and on August 17, 1950, the Secretary of Labor issued registration No. 974 which reads as follows:

"To whom it may concern:

"Be it known that, by virtue of the provisions of Section 3 of Commonwealth Act No. 213, the association of beverages employees (Mission, Imperial and Goody Rootbeer Association Chapter) has this day been registered and permitted to operate as a legitimate labor in the Philippines, with the right to collective bargaining with employers and the right to promote the material, social and moral well-being of its members, subject to all provisions of existing laws and regulations relating to labor organizations.

"This permit expires on the 17th day of August, nineteen hundred and fifty-two, unless sooner cancelled, revoked or suspended for cause."

This permit was transmitted to the applicants with a letter which in part says:

"In this connection, it should be stated that the issuance of this permit is without prejudice to such action as this Department may deem proper to take as the result of the investigation being conducted by G-2, Philippine Constabulary as regards the activities of that union, may warrant."

About three months later, or on November 14, the Secretary of Labor cancelled the above permit in a letter of the following tenor:

"You are hereby advised that we have today revoked the permit issued to the Association of Beverage Employees (Mission, Imperial and Goody Rootbeer Association Chapter) in view of the findings and recommendation of the Chief of Constabulary concerning the subversive activities of said union."

Certiorari lies to correct the exercise of judicial or official functions outside or in excess of jurisdiction or with

manifest abuse of discretion (Section 1 Rule 67). Needless to say, upon this theory alone can, and will, this appeal be decided. The reality or sufficiency of the findings of the Philippine Constabulary as grounds for the revocation is a matter beyond the province of this proceeding, as will later be explained.

Section 1 of Commonwealth Act No. 213, entitled "An Act to Define and Regulate Legitimate Labor Organizations," defines labor organization as a union duly registered and permitted to operate by the Department of Labor, and governed by constitution and by-laws not repugnant to or inconsistent with the laws of the Philippines. Section 2 specifies the rights of a duly organized and registered association, and provides that no labor organization shall be denied registration and permission to operate, except such whose object is to undermine and destroy the constituted government or to violate any law or laws of the Philippines, in which case, it shall be refused registration and permission. Section 3 states that an application to register and operate shall be filed with the Secretary of Labor and that the Secretary of Labor shall conduct an investigation of the activities of the applying labor organization if it shall appear that the applicant is entitled to registration. Section h provides that every legitimate labor organization shall keep a book and records containing a list of its members in alphabetical order and minutes of its meetings, and shall submit to the Secretary of Labor a report, at least once a year, and that failure to comply with these requirements shall be sufficient cause for the revocation of the permit issued to any defaulting legitimate labor organization.

The underlying proposition urged in the petition at bar is that the registration permit issued to the petitioners was for all intents and purposes the permanent permit contemplated by Section 3 of Commonwealth Act No. 213, since, it is argued, there is no provision for the issuance of any other kind of permit, and that a permanent permit can only be revoked for one or more of the causes enumerated in section 4.

To say that the permit given the petitioners was permanent and irrevocable is to contradict its plain meaning. The temporary character of the permit is stated in the Secretary of Labor's letter of transmittal as well as in the permit itself in terms that will admit of no doubt. Moreover, by express provision the registration provided by Section 3 is to be allowed only after investigation of the purposes and activities of the applying union has been made. The registration which has been revoked was allowed before any investigation started. It would not be according to the canon of statutory construction to regard this registration as absolute, when Section 3 makes it the duty of the Secretary of Labor before allowing such registration to satisfy himself that the applicants possess all the qualifications and none of the disqualifications required by law.

Another view that readily suggests itself is that the applicants are bound by the recitals of this permit after they have made use of it. Having accepted the permit when they could have rejected it, or at least registered a protest, they can not avoid its limitations and effects after taking benefits therefrom, by taking a position inconsistent with it. "It is upon this just and equitable principle that a person is said to be estopped to take advantage of his own fraud or wrong. The doctrine of estoppel requires of a party consistency of conduct, when inconsistency would work substantial injury to the other party." (21 C. J. 1203, 1204.)

Granting, for the purpose of argument, that the Secretary of Labor is not authorized to issue a temporary permission, as contended, it would not follow that the permission in question was clothed with the character of final registration. The result should be, rather, that the said permission was null and void, and its nullity should furnish the best argument for its withdrawal.

From all points of view, therefore, there is no escaping the conclusion that the cancellation of the appellants' registration was well within the authority of the Secretary of Labor to make. The other conclusion is that certiorari is not the proper remedy.

The appellants must look for another remedy for redress of their grievances. It must be an action predicated on the fact that the Secretary of Labor refuses to allow them unconditional registration to which they claim to be entitled, and not on the theory that their temporary permit has been illegally cancelled. The revocation complained of amounted in its ultimate consequence to a denial by the Secretary of Labor of their application for registration contemplated by Commonwealth Act No. 213, as the lower court ruled. The appellants' remedy is not to revive or give effect to the cancelled registration (which after all would expire and die a natural death very soon), but one to compel the Secretary of Labor to allow them registration and permission to operate; an action which would bring into the open the question of the sufficiency of the grounds advanced for excluding them from the exercise and enjoyment of the rights created by Commonwealth Act No. 213.

That mandamus is available may be seen from the following summary in 38 C. J. 598-600, of American decisions on the subject, including a U. S. Supreme Court decision:

"While the contrary view has been upheld, the great weight of authority is to the effect that an exception to the general rule that discretionary acts will not be reviewed or controlled exists when the discretion has been abused. The discretion must be exercised under the established rules of law, and it may be said to be abused within the foregoing rule where the action complained of has been arbitrary or capricious, or based on personal, selfish, or fraudulent motives, or on false information, or on a total lack of authority to act, or where it amounts to an evasion of a positive duty, or there has been a refusal to consider pertinent evidence, hear the parties when so required, or to entertain any proper question concerning the exercise of the discretion, or where the exercise of the discretion is in a manner entirely futile and known by the officer to be so and there are other methods which if adopted would be effective. If by reason of a mistaken view of the law or otherwise there has been in fact no actual and bona fide exercise of judgment and discretion, as, for instance, where the discretion is made to turn upon matters which under the law should not be considered, or where the action is based upon reasons outside the discretion imposed, mandamus will lie. So where the discretion is as to the existence of the facts entitling the relator to the thing demanded, if the facts are admitted or clearly proved, mandamus will issue to compel action according to law. Nevertheless, the abuse of discretion must appear very clearly before the courts will interfere by mandamus."

Upon the foregoing, the appealed decision must be, and it is, affirmed, without costs.

Paras, C.J., Feria, Montemayor, Bautista Angelo, and Labrador, JJ., concur.

Bengzon, J., concurs in the result.

Pablo M., concurs in the dispositive part.

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