

PHILIPPINE COMMUNICATIONS, ELECTRONICS & ELECTRICITY WORKERS’ FEDERATION (PCWF) AND ELIGIO GALVEZ, PETITIONERS, VS. THE HON, JUDGE RAMON O. NOLASCO, OF THE COURT OF FIRST INSTAN...

G.R. No. L-24984. July 29, 1968

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

The legal issue herein involved, essentially jurisdictional, stems from facts that follow:

Respondent company, Avegon, Incorporated (Avegon), is a domestic corporation engaged in the manufacture and distribution of television sets and transistorized radios. Two (2) labor unions are actively operating in said company: (1) the Avegon Employees Association, and (2) the Philippine Communications, Electronics & Electricity Workers Federation - (PCWF), herein petitioner union.

On March 17, 1965, petitioner union applied for certification election with the Court of Industrial Relations (CIR).[1] It alleged, inter alia that a majority of Avegon's rank and file employees - around 202 in number - are its members; that there has been no certification election during the past twelve months; and that the appropriate bargaining unit should consist of the rank and file workers to the exclusion of supervisors, security guards, and other highly confidential employees. In the main, it is prayed that petitioner union be directly certified as the sole and exclusive bargaining agent in the rank and file group. Respondent company's answer sought dismissal of the case, grounded on the existence of a three-year collective bargaining agreement - with the other union, Avegon Employees Association - which has been in force only for over a year.

CIR's order of March 24, 1965 directed Avegon's president and/or manager to furnish CIR with a copy of the company's pay-rolls for the month of February, 1965 together with an alphabetical list of employees appearing therein.

On or about April 28, 1965, Avegon laid off seventy of its employees effective as of the close of business hours on April 30, 1965. Of these, twenty-seven are members of petitioner union. Reason given for dismissal was depression in business opportunities. Of the seventy dismissed employees, sixty-three have received their separation pay. Amongst the sixty-three so paid are twenty of the twenty-seven union members whose dismissal is now being questioned.

On April 27, 1965, an unfair labor practice charge was file in CIE against Avegon (CIF Case 519-ULP). Complainants were Francisco Bernardo[2] and/or petitioner union. Averment is there made that respondent company dismissed Bernardo from his job "in violation of Section 4(a), subparagraphs 1, 2 and 4 of Republic Act 875".

This was followed on May 4, 1965 with a second unfair labor practice charge (Case 532-ULP). Complainant therein is herein petitioner union. Subject thereof is the dismissal of twenty-seven (27) members of said union. On

the same day (May 4), Avegon received a letter from petitioner union protesting the dismissal just adverted to.

On May 5, 1965, petitioner union struck, picketed Avegon's premises.

Came respondent company's verified complaint of May 10, 1965, in the Court of First Instance of Manila against herein petitioners for damages, with a prayer for preliminary injunction.[3] It was there averred that "on May 5, 1965, at around 3 o'clock in the morning, without notice, without justifiable cause, in gross bad faith, and merely for the purpose of harassing plaintiff's already faltering business, defendants declared a strike, immediately proceeded to picket the company's premises, further inducing, enticing, and cajoling plaintiff's other employees into joining 'them in the same'; that 'defendants prevented, through a show of force, intimidation, veiled threats, and by barring with their picket lines the company's gates, the other retained and non--striking employees from entering the compound and performing their work therein'; that 'plaintiff has not committed any act constituting unfair labor practice against defendant union or its members because the dismissal effected by plaintiff was justified, lawful, and without regard to union affiliations'; and that the strike staged by petitioner union 'is illegal, malicious, and unjustified because there not only exists no unfair labor practice which might create a labor dispute, but also it was without proper notice'. Avegon prayed for damages and attorneys' fees. It asked for pre-liminary injunction. On May 24, 1965, this complaint was amended to include the assertion 'that greater injury will be inflicted upon complainant by the denial of relief than will be 'inflicted upon defend-ants by the granting of the relief sought'; 'that the public officers charged with the duty to protect complainant's property are unable to furnish adequate protection'; and 'that plaintiff has no other available adequate remedy at law'.

On May 13, 1965, the then vacation judge[4] issued ex parte a restraining order, thus:

"In the meantime and until further orders from this Court, herein defendants, their agents or representatives, are hereby restrained from preventing plaintiff's employees from, entering to and going out from the company premises and performing their appointed labors therein,"

and setting for hearing Avegon's petition for preliminary injunction for May 18, 1965 at 8:30 in the morning.[5]

On said date (May 18), petitioners filed an urgent motion to dismiss and to dissolve the injunction (should be restraining order) alleging that the trial court had no jurisdiction over the case, and that even if it had, the injunction so issued is null and void for want of compliance with the indispensable requisites set forth in Section 9 of the Industrial Peace Act.

Upon the motion and opposition thereto, and the arguments adduced by the parties, respondent judge on July 30, 1965 directed that a writ of preliminary injunction issue upon a P1,000-bond. This was followed on August 14, 1965 with the corresponding writ directing "the said Philippine Communications, Electronics Electricity Workers' Federation (PCWF) and all your attorneys, representatives, agents, and any other person assisting you, [to], refrain from preventing plaintiff's employees from entering to and going out from the company premises and performing their appointed labors therein". Charging violation both of the restraining order and injunctive writ, respondent company moved to have petitioners cited for contempt."[6]

Petitioners now seek redress through this present original petition for certiorari and prohibition. They assert (1) that the Court of First Instance of Manila has no jurisdiction over the case; and (2) that the writ of preliminary injunction issued is void for failure to comply with the provisions of Section 9 of Republic Act 875.

This Court issued a cease-and-desist order upon a P1,000-bond.

1. Petitioners press upon us the view that the court of first instance is without jurisdiction to entertain Avegon's complaint and to issue the preliminary injunction writ. And this, because the allegations in the complaint - that a duly registered labor union went on strike and that "through a show of force, intimidation, veiled threats and by

barring with their picket lines the company's gates, the said pickets have prevented non-striking employees from entering the compound and performing their work therein" - show the existence of a labor dispute. The prevention of these acts which may be termed as unfair labor practices, so petitioners aver, is CIR's exclusive concern.

Respondents maintain differently. Their position is that while CIE has jurisdiction over unfair labor practice cases; yet no unfair labor practice was committed by private respondents, as specifically averred in the complaint. From this, respondents postulate that since jurisdiction is determined by the allegations in the complaint and the complaint avers that no unfair labor practices were committed, and since the instant case does not fall under any of the class of cases exclusively within CIR's jurisdiction,[7] then an ordinary court - Court of First Instance of Manila - has jurisdiction.

Stripped of inconsequential details, averments there are in the complaint sufficient to bear out the existence of a labor dispute. For, alleged therein, is that petitioner union protested the dismissal from Avegon's employ of twenty-seven (27) of its members; that thereafter, it staged a strike, picketed the company's premises "inducing, enticing, and cajoling" other employees to join, the strike in the process. A question regarding tenure of employment is thus clearly tendered. There is a labor dispute.[8]

And, that labor dispute came about because of alleged unfair labor practices. Of record is that on May 4, 1965, or a day before petitioner union struck, said union not only protested to Avegon, but also went to CIR, to voice out its grievance concerning the dismissal of twenty-seven of its members. In CIR they charged violation of Sec. 4(a), subparagraphs 1, 2, and 4 of the Industrial Peace Act. Not that the trial court was unaware of the filing of this unfair labor practice charge, Case 532-ULP, and of the other, Case 519-ULP. These facts were made known to the trial court, offered precisely to deter its hand from granting preliminary injunction to Avegon.

We have laid down the rule that "[t]he criterion, to bring the case under the jurisdiction of the industrial Court, is whether the acts complained of in the petition for injunction arose out of or are connected or interwoven with, the unfair labor practice case (PAFLU vs. Caluag, G. E. L-9104, Sept. 10, 1956), a question of fact that should be brought to the attention of the court a quo to entitle it to pass upon the issue whether it has jurisdiction or not over the case".[9]

Readily to be seen then is that the acts complained of by Avegon in the court of first instance "arose out of, or are connected or interwoven with" the unfair labor practice charge herein petitioners previously filed with CIR. This interrelation was clearly presented to the trial court thru petitioners' "Urgent Motion To Dismiss and to Dissolve Injunction". The case, therefore, is well within the jurisdictional area allocated to CIR and net within the cognizance of the Court of First Instance of Manila.[10]

And more, CIR's jurisdiction stays even if no unfair labor practice case has been filed with CIR. It is enough that unfair labor practice is, involved.[11] This renders irrelevant the distinction respondents would wish to make between an unfair labor practice charge and an unfair labor practice complaint.

In sum, unfair labor practice is the root cause of the whole controversy now before us. The subject matter of Avegon's complaint herein, involves acts emanating from unfair labor practice. It has been held that "[f]rom PAFLU vs. Tan to Bay View Hotel, Inc. vs. Manila Hotel Workers Union, there has been unwavering adherence to the principle that under the Industrial Peace Act, unfair labor practice cases fall within the exclusive competence of the Court of Industrial Relations".[12]

It thus results that the Court of First Instance of Manila has no jurisdiction over Civil Case No. 60864, and cannot issue therein the ancillary writ of preliminary injunction.[13]

2. Neither would the claim for damages suffice to keep the case within the jurisdictional boundaries of the court of

first instance. That claim is interwoven with unfair labor practice. The legality or illegality, of the strike must necessarily be litigated in the unfair labor practice case. And "the right to damages 'would still have to depend on the evidence in the unfair labor practice case' - in the CIR". To allow Civil Case No. 60864 to prosper would be to bring about "split jurisdiction - which is obnoxious to the orderly administration of justice".[14]

3. Assuming that the Court of First Instance of Manila acquired jurisdiction over the case, was the writ of preliminary injunction validly issued by said court?

Directing our attention first to the restraining order of May 13, 1965, we say that its defects may no longer be inquired into Reason: With the issuance of the writ of preliminary injunction on August 14, 1965, the May 13 restraining order has become functus officio.[15]

Our inquiry then will be narrowed down to the validity of the injunctive writ.

The controlling statute is Section 9 of the Industrial Peace Act. It says -

"SEC. 9. Injunction in Labor Disputes. -

x x x

(d) No court of the Philippines shall have jurisdiction to issue a temporary or permanent injunction in any case involving, or growing out of a labor dispute, as herein defined except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after finding of fact by the Court, to the effect:

(1) That unlawful acts have been threatened and will be committed unless restrained, or have been committed and will be continued unless res-trained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act, or actually authorizing or ratifying the same after actual knowledge thereof;

(2) That substantial and irreparable injury to complainant's property will follow;

(3) That as to each item of relief granted greater injury will be inflicted upon complainant by the denial of relief than upon defendants by the granting of relief;

(4) That complainant has no adequate remedy at law; and

(5) That the public officers charged with the duty to protect complainant's property are unable or unwilling to furnish adequate protection.

Such hearing shall be held after due and personal notice thereof has been given, in such manner as the Court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the province or city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's prop-erty: x x x".

Where a case involves a labor dispute, "the provisions of the Magna Carta of Labor (R.A. 875) should be strictly followed".[16] The court here, issued the disputed writ of preliminary injunction "upon considering said complaint and affidavit by plaintiff, on Incorporated and it appearing to the satisfaction of the Court that this is a case where a writ of injunction should issue, sufficient reasons having been alleged".

Grounds there are sufficient to overturn this writ. For one, there is the absence of a showing that the court heard the testimony of witnesses required in Section 9(d) to support the allegations of the complaint and testimony in opposition thereto.[17] Then, the court did not make any "finding of fact" as to the existence or non-existence of

the facts required to be shown under the afore-quoted Section 9(d) and also under Section 9(f) of the Industrial Peace Act, Nor was notice given "to the chief of those public officials of the x x x city x x x charged with the duty to protect complainant's property", also a prerequisite in said Section 9(d) heretofore mentioned. And finally, the record is barren as to whether or not complainant exerted "every reasonable effort to settle such dispute by negotia-tion or with the aid of any available governmental machinery of mediation or by voluntary arbitration, another condition exacted by law - this time Section 9(e) of, the Industrial Peace Act – before a restraining order or injunction may be granted. Failure to comply with even one of these requirements will suffice to deny the issuance of the writ. Having failed to establish any one of these conditions, Avegon is forbidden relief.[18]

We thus reach the conclusion that the writ of preliminary injunction issued by respondent judge was in excess of his juris-diction and null and void.[19]

For the reasons given, (1) the writ of certiorari and prohibition prayed for herein is hereby granted; and the preliminary injunction heretofore issued by this Court is hereby made per-manent; and (2) the Court o First Instance of Manila is hereby directed to dismiss Civil Case No. 60864 of said court entitled "Avegon, Incorporated, Plaintiff, vs. Philippine Communications, Electronics & Electricity Workers' Federation (PCWF) and Eligio Galvez, Defendants".

Costs against private respondents.

SO ORDERED.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Case No. 1502-MC, entitled "In Re: Petition For Certification, Philippine Communications, Electronics & Electricity 'Workers' Federation (PCWF), Petitioner".)

[2] Bernardo is not among the 27 union members listed by the company.

[3] Civil Case No. 60864, Court of First Instance of Manila, Branch entitled "Avegon, Incorporated, Plaintiff, vs. Philippine Communications, Electronics & Electricity Workers Federation (PCWF) Eligio Galvez, Defendants".

[4] Case was temporarily assigned to him (Judge Conrado M. Vasque as respondent judge was then on vacation. Respondents' Memo-randum, p. 4.

[5] See: Annex G of Petition.

[6] See: Annex O of Petition.

[7] Cases falling wider the jurisdiction of the Court of Industrial Relations: "(1) when the labor dispute affects an industry which is indispensable to the national interest and is so certified by the President to the industrial court (Section 10, Republic Act No. 875) (2) when the controversy refers to minimum wage under the Minim Wage Law (Republic Act No, 602); (3) when it involves hours of employment under the Eight-Hour Labor Law (Commonwealth Act 444); and (4) when it. Involves an unfair labor practice [section 5(a) Republic Act No. 875]"875]". PAFLU vs. Tan, 99 Phil, 854, 862.

[8] Seno vs. Mendoza, 21 Supreme Court Reports Anno, 1124, 1129.

[9] United Pepsi-Cola Sales Organization vs. Cañizares, 102 Phil. 887, 891.

[10] Erlanger Galinger, Inc. vs. Erlanger & Galinger Employees Association, 104 Phil. 17, 19-20; United Pepsi-Cola Sales Organization vs. Cañizares, supra, at pp. 890-891; National Garments and Textile Workers'

Union-PAFLU vs. Caluag, 99 Phil. 1067.

[11] Erlanger & Calinger, Inc. vs. Erlanger & Galinger Employees Association, *supra*, at p. 21; Consolidated Labor Association of the Philippines vs. Caluag, 103 Phil. 1032, 1040, citing *Reyes vs. Tan*, 99 Phil. 880.

[12] Security Bank Employees Union-NATU vs. Security Bank & Trust - Company, L-28536, April 30, 1968; Associated Labor Union Gomez, 19 Supreme Court Reports Anno. 304, 309.

[13] See: Associated Labor Union vs. Gomez, *supra*, at p. 310.

[14] Associated Labor Union vs. Gomez, *supra*, at p. 309. See also: Gonzalo Puyat & Sons, Inc. vs. Labayo, L-22215, January 30, 1968, 1968A Phil. 293, 294-295.

[15] See: Manila Railroad Company vs. Yatco, L-23056, May 27, 1968.

[16] Seno vs. Mendoza, *supra*, at p. 1132; Republic Flour Mills Workers Association vs. Reyes, 18 Supreme Court Reports Anno. 796-800.

[17] Associated Watchmen vs. United States Lines, 101 Phil. 896, 901 PAFLU vs. Tan, *supra*, at p. 867.

[18] See: Brotherhood of railroad Trainmen, Enterprise Lodge vs. Toledo, Peoria & Western Railroad Co., 64 S. Ct. 413, 150 A. L. R. 810.

[19] PAFLU vs. Tan, *supra*, at pp. 862-867.

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