

NATIONAL UNION OF PRINTING WORKERS, PETITIONERS, VS. THE ASIA PRINTING AND/OR LU MING, ET AL., RESPONDENTS.

G.R. No. L-8750. July 20, 1956

Ponente: MONTEMAYOR, J.

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MONTEMAYOR, J.:

This is an appeal through certiorari from the order of December 21, 1954 of Judge Jose Bautista, now presiding Judge of the Court of Industrial Relations (CIR) dismissing the complaint filed against the Asia Printing and/or Lu Ming for unfair labor practices as well as the resolution of the CIR en banc of January 20, 1955, denying the motion for reconsideration of the order of Judge Bautista.

Francisco Dacanay was employed as pressman in the printing establishment of the Asia Printing managed by Lu Ming. On August 23, 1953, he was dismissed according to him, because of his union activities with the National Union of Printing Workers, of which he was a member. Charges were filed by petitioner against the printing establishment and its manager with the CIR. Judge Bautista designated Atty. M. A. Ferrer, acting prosecutor of the Court, to conduct an investigation. Finding a prima facie case, Ferrer filed the corresponding complaint against the Asia Printing and its manager Lu Ming with the CIR and Judge Bautista held hearings at which both parties, complainant and respondents adduced its evidence.

In his order Annex "F" dismissing the complaint, Judge Bautista found that Dacanay was not dismissed due to his union activities but was separated as claimed by the respondent because of inefficiency, incompetence, lack of interest in his work and for being troublesome, having guarded with a number of his co-employees. In his petition for certiorari, Dacanay raised the following questions:

"1st. That the trial court had no jurisdiction and abused its discretion after the "Charges" for unfair labor practices were already proved by the Union before the CIR Commissioner, and erred by directing the Union to give evidence again before him, a procedure not sanctioned by any law;

"2nd. That the trial court erred in adopting a procedure not provided for by Republic Act 875 by not itself directly hearing the complainant union's "charges" instead of a so-called "preliminary investigation" by a CIR Commissioner, said procedure transforming the Court into an Inquisitor, Prosecutor and Judge in one; instead of being a Court only;

"3rd. That the records of the investigating Commissioner, being public documents, exposed unnecessarily the evidence of the complainant union so that the employer respondent knew in advance the evidence of the complainant to the disadvantage of the complainant union;

"4th. That the established procedure in unfair labor practices as decreed in sections 5 and 6 of Republic Act 875 do not require any so-called "preliminary investigation" unlike in criminal proceedings, but an investigation by the Court (or duly designated Judge) who shall decide thereon the Court itself or issued an enjoining order if necessary to prevent further unfair labor practices."

In the instant proceeding, Dacanay advances the theory that assuming that the investigation conducted by Acting

Prosecutor, Ferrer, was proper and legal, after finding that respondents were guilty of unfair labor practices for having dismissed him for his union activities, then on the basis of said findings of the prosecutor, the CIR should have rendered judgment in his favor, ordering respondents to reinstate him and to pay his backwages. It is obvious that this contention is untenable. In the first place, according to the respondents, the investigation conducted by Ferrer was "ex parte". Respondent were never given an opportunity to be present and to take part in said investigation and present their side. That may be the reason why Ferrer found a prima facie case against them. Furthermore, said finding that respondents were guilty of unfair labor practice was only "prima facie", and made only by the prosecutor and not by the CIR itself. Consequently, it could not be made the basis of a decision or award.

Petitioner also claims that the procedure adopted by the CIR having the charges filed by him against the respondent investigated by its acting prosecutor instead of by the CIR itself, is not sanctioned by the law because Republic Act No. 875 known as the Industrial Peace Act does not require any preliminary investigation; besides, said procedure is disadvantageous to petitioner in that it exposed unnecessarily his evidence to the respondent who then knew in advance what said evidence was. We see no objection to the so-called exposure of the evidence of the petition unless he wanted to spring a surprise on the respondents. In civil cases, the plaintiff always presents his evidence first, thereby giving the defendant time and opportunity not only to present its own evidence but to refute that already presented by plaintiff. In criminal cases, the offended party or complainant invariably submits his evidence first, to establish a prima facie case to justify the charges, and in serious offense, preliminary investigation is conducted to establish probable cause before the offender is required to stand trial and to present his own evidence. For better understanding of the procedure provided for by Republic Act No. 875 in unfair labor practice cases, we reproduce section 5(b) of the same:

"Sec. 5 Unfair Labor Practice.—

"(b) The Court shall observe the following procedure without resort to mediation and conciliation as provided in section four of Commonwealth Act Numbered One hundred and three, as amended, or to any pre-trial procedure. Whenever it is charged by an offended party or his representative that any person has engaged or is engaging in any such unfair labor practice, the court or any agency or agent designated by the Court must investigate such charge and shall have the power to issue and cause to be served upon such person a complaint stating the charges in that respect and containing a notice of hearing before the Court or a member thereof, or before a designated Hearing Examiner at the time and place fixed therein not less than five nor more than ten days after serving the said complaint."

From the above quoted legal provision, it is, to us, clear that the Court (CIR) must first investigate the charges filed and that said investigation may be conducted either by the Court itself or a member thereof or any agent, like the acting prosecutor or a commissioner. Such investigation, is mandatory, because the law uses the word "must". Now, whether or not a regular complaint is to be filed by him depends upon the result of said investigation. It is when a regular complaint based on the said investigation is filed that the CIR intervenes by requiring respondent to answer the complaint and then both parties are heard to receive the evidence to be adduced by them. The investigation is really necessary not only for the protection of the respondent but also for the benefit of the CIR itself so that the respondent may not be required to defend itself against frivolous and unfounded charges, and the valuable time of the CIR dissipated and unnecessarily spent in hearing charges without any basis.

Interpreting a similar provision of the National Labor Relation Acts, the United States Circuit Courts of Appeals in the Case of National Labor Relations Board vs. Barrett Co., et al., 120 F. 2nd. 583 referring to the National Labor Relations Board, the counterpart of our CIR, said:

* * *. Its powers and its duties are closely related. Its duty to investigate before it exercise its power to file a complaint seems to us clear. In fact, its exercise of power without investigation may be justifiably questioned and legitimately criticized." "Certainly few would deny the wisdom of such a course. There may be criticisms which arise out of making the investigator, also, the trier of the fact. But that criticism, whatever its merits, is in no way involved in our inquiry, which is to ascertain whether the Act required the Board, as appellants contend, to act, that is, to issue the complaint, and then investigate the facts—or, as the Government urges, required the Board to investigate the facts set forth in the charge of the employee and issue its complaint only if it finds merit in the charge. In other words, if it appears that reasonable grounds exist for believing the allegation of the employee to be true, and that the employer is engaged in interstate commerce and has been guilty of unfair labor practice condemned by the Act, the Board should act, but not until its investigation established or tended to establish such facts.

"It would seem highly desirable that the Board's position be upheld, for, if not, the employer would be in the unhappy position of being called upon to defend against false charges preferred by malicious or irresponsible parties. Somewhat comparable to such a situation would be the case of a prosecuting attorney who started criminal proceedings first and investigated afterwards.

"Specifically the questions are: (1) Does section 10(6) give the power to investigate? and (2) if so, are the powers to investigate and to issue subpoenas therefor, restricted by these sections to cases which have reached the stage where a complaint against the employer has been issued by the Board?.

"* * *. The power of the Board to issue complaints, to conduct hearings, and to make findings, does not, expressly or impliedly, exclude the investigatory powers. On the other hand, the investigatory powers are complementary to the powers expressly granted to the Board."

"Section 10 (b) does not require the Board to issue a complaint. It expressly provides that the Board "shall have power to issue and cause to be served * * * a complaint stating the charges in that respect "* * *." "Power to issue" is different from "shall issue." The difference is important. In one the Board's duty is mandatory. It has no discretion. In the other, the Board has a discretion—it acts judicially. It is in the exercise of this discretionary power, that investigation becomes necessary. The power to investigate is a necessary power, which is incidental to the exercise of the power to issue a complaint. It is an implied power, quite as clearly granted as any express power enumerated in said section 10(b.)."

We are, therefore, satisfied that the CIR acted correctly in exercising its investigatory power by designating its acting prosecutor to conduct an investigation of the charges filed by the petitioner, and later having the complaint filed on the basis of the result of said investigation and requiring the respondent to file his answer and then hearing both parties.

As to the reasons for the dismissal of Dacanay, the CIR through Judge Bautista, found that he could not have been dismissed for his union activities in the National Union of Printing Workers, for the reason that at the time of his dismissal on August 23, 1953, said union was not yet in existence. On the other hand, the CIR found from the evidence submitted by respondents, Asia Printing and/or its manager, Lu Ming, that Dacanay had been guilty of a series of act of inefficiency, incompetence, lack of interest in his work, disobedience, and as a trouble-maker, ranging from disobeying instructions given to him by the manager of the printing establishment, to vexing, seriously annoying and quarreling with women employees of the establishment. On several instances, the manager asked Dacanay to place the numbering machine in a can of gas after the mold was finished. This was necessary in order to prevent the machine from becoming rusty. Dacanay never obeyed said instructions saying that, that was for the compositor to do. In other instances, after being given cans of ink to be used in the printing, Dacanay would remove the; labels thereby leaving the ink cans without any identification as to the color and the kind of ink in them, thereby confusing the other employees. At one time, Dacanay quarreled with Isabelo de la Paz, designated by the management to distribute jobs to the workers because Dacanay wanted the position for himself.

Then, at another time, Dacanay with a drawn knife about 5 inches long, challenged Roberto Bernardo to fight. Roberto, evidently felt that he could not ignore the challenge, and so he took the big knife used in cutting paper and addressed Dacanay thus:

"What is in your mind?

If you like, whatever you like, I am ready."

Fortunately, the other employees were able to separate them. As to seriously annoying and quarreling with women employees and co-workers, particularly Elena del Rosario, for reasons of decency we refrain from relating the incident; but it is described in the order of Judge, Bautista as related by the woman employee herself, who happened to be married. We reproduce a pertinent portion of the order of Judge Bautista about the charge of inefficiency, incompetence and of being troublesome against Dacanay.

"* * *. As to the imputation of inefficiency and disobedience, Dacanay did not even deny it. He merely stated that, tact Mr. Ming found anything not proper in my behavior, during the last 18 and one half years, he would not have given me the wage of P9.80 a day. It is a fact, however, that from 1946 to 1949, the company granted to all its employees increases of wages and consequently Dacanay received them; and the last general increase was given in 1949 by virtue of a decision of the Court of Industrial Relations.

"With respect to the charge of being troublesome, in the said five altercations, only the case of Roberto Bernardo was denied by Dacanay. The rest remained uncontradicted."

In view of the foregoing, the order of Judge Bautista of December 21, 1954, dismissing Francisco Dacanay's complaint, and the resolution of the CIR en banc dated January 20, 1955, denying Dacanay's motion for reconsideration, are hereby affirmed, with costs.

Paras, C. J., Bengzon, Padilla, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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