

EASTERN TEXTILE MILLS, INC., PETITIONER, VS. COURT OF INDUSTRIAL RELATIONS AND EASTERN TEXTILE WORKERS UNION (FFW), RESPONDENTS.

G.R. Nos. L-30410 - L-30411. June 30, 1972

Ponente: REYES, J. B. L., J.

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REYES, J. B. L., J.:

Petition filed by the Eastern Textile Mills, Inc. for review of the Court of Industrial Relation's order and resolution en banc, dated 20 December 1968 and 27 January, 1969, respectively, directing the immediate reinstatement of several dismissed employees.

Insofar as pertinent to the present proceeding, the facts of these cases are as follows:

Eastern Textile Mills, Inc. is a corporation engaged in the manufacture of textile, with offices and factory at Malhacan, Meycauayan, Bulacan. In 1964, it had a collective bargaining agreement with the Eastern Textile Workers Union (FFW), which provided, among many other things, for a no-strike, no-lock out clause, and for the settlement of any disagreement through a grievance machinery.

On 2 November 1966, pursuant to the terms of the agreement, the union submitted to the company its proposals for a new contract. The parties met in several conferences before the proper Labor Department official, but before they could come to an understanding, the union filed a notice to strike against the company.

A series of conciliation meetings followed, but no satisfactory settlement of the dispute was reached because of the refusal of the union officers to submit for arbitration the matter of dismissal of two employees, which was one of the charges set up against the employer. In the evening of 11 March 1967, the union actually staged a strike at plaintiff's offices and mills in Bulacan.

On 13 March 1967, the employer filed in the Court of industrial Relations a complaint for unfair labor practice against the union and its officers (Case No. 213-Inj.), for breach of the terms of the collective bargaining agreement. The company likewise prayed for a writ of preliminary injunction, charging that the respondent officers of the union and union members were blocking the ingress and egress into its premises of company officials, personnel, workers, equipment, supplies and other properties needed for its business operations, thereby causing interruption of the work therein.

After the parties were heard on the company's prayer for preliminary injunction, the Court of Industrial Relations issued, on 29 March 1967, an order restraining the respondent union, its officers and members on strike, from committing the unlawful acts complained of and duly established by petitioner.

It appears that as a result of incidents that took place in the vicinity of the strike-bound mill on 31 March 1967, involving the strikers and non-striking workers, the company filed in the injunction case a motion for contempt against some union officers and members allegedly for violation of the restraining order. And for the same acts allegedly committed by the strikers, a case for Indirect Contempt was later filed against them by the Prosecution

Division (CIR Case No. V-35).[1] On 24 April 1967, a complaint for unfair labor practice was filed by the Court Prosecutor against the union and against union officers Virgilio Cruz, Eduardo Felix, Maximino Zamora, Bonifacio Manalastas, Ernesto Manangan, Narciso Tabing and Mario Fabian (Case No. 4740-ULP), allegedly for violation of the terms of the collective bargaining agreement. The two cases (Nos. 213-Inj. and 4740-ULP) were thereafter consolidated and heard.

In a decision penned by Trial Judge Ansberto Paredes, dated 10 June 1968, it was found that despite the company's endeavor to settle their dispute through peaceful bargaining process, the respondent union and union officers acted without good faith in their dealings with the latter; that the strike was declared prior to the expiration of the 30-day cooling off period as provided in the Industrial Peace Act; that there was no sufficient justification for the calling of the strike considering that the dismissal of the two employees, was made upon due cause; and that the strike was in violation of the no-strike clause and the grievance procedure provided in the collective bargaining agreement which was still in force between the parties. Furthermore, the trial judge found to be substantiated the company's charge that the strikers employed unlawful means in the prosecution of the strike. Consequently, the strike staged on 11 March 1967 was declared illegal, and respondents union officers Virgilio Cruz, Eduardo Felix, Bonifacio Manalastas, Narciso Tabing and Mario Fabian (except Maximino Zamora, Jr. and Ernesto Manangan who had opposed the declaration of the strike), together with strikers Benjamin Antonio, Antonio Navarette, Benedicto Llanillo, Luciano Palica, Antonio de Guzman, Juan Somera, Roger Mia, Arsenio Auto, Mansueto Antojado and Hipolito Gesmundo, were declared guilty of unfair labor practice, and ordered suspended from work for a period of 3 months with warning that a repetition of the same offense would draw a more severe, penalty.

After the petitioner company had moved to reconsider the decision of the trial judge, the parties received a "Resolution" dated 21 August 1968 penned by Judge Ansberto Paredes and concurred in by Judge Amado Bugayong, denying reconsideration of the suspension penalty imposed on the erring workers. It was therein ruled that although the strike was found to be illegal, the Industrial Court nevertheless possesses discretion "to take such affirmative action as will effectuate the policies of the Industrial Peace Act. Furthermore, it was pointed out that the workers' readmission to work, although they had to execute letters stating that such readmission shall be "without prejudice to the outcome of the cases in Court", indicated condonation by the company of the strikers' acts.

The Resolution was accompanied with separate opinions of the three other judges. Presiding Judge Arsenio Martinez wrote that while he concurs with the Trial Judge's finding that respondents were guilty of unfair labor practice and that the strike staged by them on 11 March 1967 was illegal, he disagrees with the judgment imposing upon them merely a 3-month suspension penalty. Judge Martinez expressed the view that under the second paragraph of Section 15 of Republic Act 875, an employee who participates in a strike declared without prior bargaining with the employer loses his status as an employee, and the law takes away from the court the discretion to mitigate such penalty imposable upon the employee. Consequently, his vote was to reconsider and modify the decision of the trial judge by declaring all the individual respondents, except Manangan and Zamora, and the union members "specifically mentioned therein who have committed illegal acts during the strike" to have forfeited their positions in the company.

In his separate dissenting opinion, Judge Emiliano Tabigne declared that since the strike was illegal, then all the 100 strikers involved in the case, except Zamora and Manangan, should be considered separated from the service of the company.

Judge Joaquin Salvador, upon the other hand, expressed his conformity with the finding of the trial judge on the illegality of the strike both as to its motivation as well as with the means employed to carry it. But while he also

believed that Republic Act 875 gives no room for the exercise by the Industrial Court of discretion in the application of the provision of the law declaring participants an illegal strike to have lost their rights, privileges and status as employees, he was not for the indiscriminate separation of 100 strikers without determining their actual participation in said strike. Thus, declaring that on the basis of the records of the case they were shown to have taken part in the illegal strike, Judge Salvador urged that the respondents officers of the union, except Zamora and Manangan (totalling five), and union officer Alfredo Monsanto, Luciano Palica, Roberto Tandiana, Armando Brillo, Renato Reamillo, Ruben Gueco, Benjamin Llanillo, Antonio de Guzman, Estatonico Reconalla, Antonio Navarette, Juan Somera, Ben Antonio, Mansueto Antojado, Hipolito Osmundo, Mario Fabian, Noni Roca, Arsenio Auto, Roger Mia, Ernesto Pila, Jacobo Medina, Pedro Susuido, Emilio Rigon, Rodolfo Soriano, Benjamin Fortez, Santos Dulalia, Gloria Paulino, Florencio Vinuya, Reynaldo Marcelino, Rodolfo Concepcion, Antonio Almario, Remigio Marposo, Pancrasio Aragos, Nemesio Belchez, Eusebio Casin, Esteban Mendoza, Hipolito Gesmundo, Laureano Hermoso, Agripina Gonzales, Ruben Espeña, Beny Rice and Honorato Gonzales, should be declared as having lost their status as employees. He voted, therefore, to grant the motion for reconsideration.

After the company had dismissed, on 28 November 1968. 38 workers mostly named in the opinion of Judge Salvador, allegedly in implementation of the court's decision, the union applied to the same court for a writ of execution of the supposed majority decision of 10 June 1968, which imposed only 3-month suspension penalty upon the strikers.

On 4 December 1968, under the signature of Judge Paredes, an order was issued reading as follows:

"This concerns respondents' 'Motion for Issuance of a Writ of Execution and a Restraining Order,' filed on December 4, 1968, which was opposed by complainant on December 13, 1968.

"The basis of the motion is the Resolution dated August 21, 1968, denying the motion for reconsideration of complainant. Inasmuch as the said Resolution was concurred in only by Associate Judges Amando C. Bugayong and the undersigned, insofar as the penalty of suspension is concerned the same is not the resolution of the Court en banc but the personal opinion of the said two Judges. In the hearing of the motion on December 14, 1968, the parties agreed that on November 28, 1968, the respondents and several other employees were dismissed. Considering the aforesaid basis and the fact that the" dismissal is a fait accompli, the prayer for restraining order is without legal ground to stand on and is belated.

"Aside from the opinion of the two Judges, the three other Judges of the Court rendered their own separate opinions. Hence, there is a necessity of clarifying on what matter the Court En Banc has arrived at a majority decision.

"There is unanimity in the finding of unfair labor practice and strike illegality, and of illegal acts in the execution of the strike.

"The bone of contention is limited to the penalty imposed. Judge Bugayong and the undersigned Trial Judge were for the affirmance of the Trial Court's Decision ordering the suspension of respondents Virgilio Cruz, Eduardo Felix, Bonifacio Manalastas, Narciso Tabing and Mario Fabian, as well as of strikers Benjamin Antonio, Antonio Navarette, Narciso Tabing, Benedicto Llanillo, Luciano Palica, Antonio de Guzman, Juan Somera, Roger Mia, Arsenio Auto, Mario Fabian, Mansueto Antojado, Hipolito Gesmundo and Eduardo Felix. Presiding Judge Arsenio I. Martinez opines that all the aforementioned respondents and strikers as named in the Decision should be deemed to have forfeited their rights to their employment. Associate Judge Emiliano C. Tabigne is of the opinion that 100 members of the union, including the respondent officers, except Maximo Zamora, Jr. and Ernesto Manangan, should be considered terminated from the service. Associate Judge Joaquin M. Salvador voted for the loss of employment of respondents and of 41 employees who are union members and whom he found to have participated in the illegal strike.

"It can be gleaned from the foregoing that there is a majority vote on the dismissal of fifteen employees as mentioned in the Decision, inasmuch as the opinion of Judge Martinez referred to only all those suspended in the Decision and the opinions of Judges Tabigne and Salvador include and cover the said persons. With respect to other persons, there is a concurrence of only Judges Tabigne and Salvador on some of them, hence, no majority.

"In the aforesaid hearing on December 14, 1968, the parties agreed that the company implemented the opinion of Judge Salvador and dismissed on November 28, 1968 those persons named therein.

"Wherefore, in line with the foregoing disposition and clarification, only respondents Virgilio Cruz, Eduardo Felix (also striker), Bonifacio Manalastas, Narciso Tabing (also striker) and Mario Fabian (also striker), and strikers Benjamin Antonio, Antonio Navarette, Benedicto Llanillo, Luciano Palica, Antonio de Guzman, Juan Somera, Roger Mia, Arsenio Auto, Mansueto Antojado and Hipolito Gesmundo should be DISMISSED. The rest of all those dismissed in the implementation of the erroneous interpretation of the complainant should be immediately REINSTATED."

The company moved to reconsider the said order, and when it was denied by the court en banc on 27 January 1969, with Judges Tabigne and Salvador dissenting and insisting on their original opinions, the present proceeding was instituted.

It is evident from the arguments presented here that the parties are not disputing the declaration by the Industrial Court of the illegality of the strike nor of the strikers' liability for their participation therein. The controversy lies in the penalty actually imposed by the court upon the strikers and to be implemented by the company, the respondent Union claiming that it is the 3-month suspension contained in the "Resolution" penned by Judge Paredes and concurred in by Judge Bugayong, while the petitioner company contends that it is the dismissal of those who took part in the illegal strike, as recommended by the three other members of the Court (Presiding Judge Martinez and Judges Tabigne and Salvador) in their separate "dissenting" opinions. And, as the judgment of the court in the cases had already become final and executory^[2] herein petitioner insists on its right to dismiss the workers specifically named by Judge Salvador in his opinion as having committed unlawful acts during the strike.

There can be no doubt as to the action of the court on the company's motion for reconsideration: a majority of three (3) CIR judges voted to grant reconsideration and decreed the dismissal of the strikers named in the resolution of Judges Paredes and Bugayong instead of merely suspending them. The vagueness in the judgment, of the court, that seems to have misled the company into dismissing 38 instead of the 15 employees named in the Decision, appears to have been brought about by the fact that a majority of the judges who were for dismissal of the employees could not agree on the exact number and identity of the strikers to be separated from the company employ.

All these doubts could have been prevented if, as common sense dictated, the Presiding Judge had certified to the actual points on which the majority of the judges were in agreement, in view of the diversity of individual opinions rendered. As this Court once ruled:

"It would appear that in order that there may be a decision, order or award it is enough that the judges (of the Court of Industrial Relations) composing the court sit together and that the concurrence of at least three of the five judges be obtained. It is not necessary that the requisite number of judges should agree on the issues raised or on the reasons that each may advance in support of their findings or conclusions, it being sufficient that they concur or agree on the result. The issues may vary, the reasons may differ, but if the judges arrive at the same conclusion, or agree on the same result, there is decision. This may happen when in addition to the majority opinion, some judges write concurring opinions expressing their views on some matters discussed or on issues raised or when each writes separate or individual opinions, but if they agree on the result, the law is satisfied." (Embassy Motors Workers Union (PAFLU), vs. CIR, L-18685, 13 September 1963, 9 SCRA 1).

An analysis of the opinion of Presiding Judge Martinez (Petition, Annex "G") would settle the lack of merit of the petitioner Company's appeal. He said:

"I agree unqualifiedly with the Trial Court that, on the basis of the evidence on record, respondents are guilty of unfair labor practice and that the strike staged by them on 11 March 1967 is illegal.

"I disagree, however, with the conclusion of the Trial Court that respondents, except Zamora and Manangan, as well as the other members of the respondent union specifically named therein who committed illegal acts during the strike, should merely be suspended from work for a period of three (3) months from finality of the decision and warned that a repetition of this offense would draw a more severe penalty."

After stressing that under section 15 of the Industrial Peace Act (R.A. 875) "any worker who participates in such strike (called without having first bargained collectively with the employer) shall lose his status as an employee for the purposes of this Act", Judge Martinez concluded (Supreme Court Rollo, page 80):

"I therefore vote to reconsider and modify the Decision of the Trial Court in that all respondents, except Manangan and Zamora, and all those union members specifically named therein who committed illegal acts during the strike, should be deemed to have forfeited their rights to their positions in the petitioner company."

Plainly, in voting for the dismissal of all respondents, except Manangan and Zamora, Judge Martinez included within the term "respondents" only these seven (7) individuals named as such in the original complaints in cases Nos. "4740-ULP" and "213-Inj." of the court below (C.I.R.), i. e. Virgilio Cruz, Eduardo Felix; Maximino Zamora (later excluded), Bonifacio Manalastas, Ernesto Manangan (excluded), Narciso Tabing and Mario Fabian. Judge Martinez could not have meant by "respondents" to be discharged all the 100 members of the union that went on strike, for then his inclusion in the dismissal of "the other members of the respondent union * * * who committed illegal acts during the strike" would have been a redundancy and a duplication, for these violent union members were necessarily included among those who went on illegal strike. Plainly, therefore, Judge Martinez voted only for the dismissal of those workers, fifteen (15) in number, specifically named as subject to suspension in the resolution of Trial Judge Ansberto Paredes dated 10 June 1968 (concurred in by Judge Bugayong).

Since these fifteen workers whom Judge Martinez voted against were also included in the 100 whom Judge Tabigne voted to dismiss, and were also included in the 41 laborers that should be dismissed in the opinion of Judge Salvador, the conclusion is inescapable that there was a majority opinion of three C.I.R. judges for the dismissal of said fifteen (15), and only these fifteen. The separation of the other laborers was, therefore, unwarranted under the decision, and these latter should be reinstated, as correctly held in the Resolution of 20 December 1968.

There is, therefore, no error in the court's declaration of the propriety of the dismissal of Virgilio Cruz, Eduardo Felix, Bonifacio Manalastas, Narciso Tabing, Mario Fabian, Benjamin Antonio, Antonio Navarette, Benedicto Llanillo, Luciano Mica, Antonio de Guzman, Juan Somera, Roger Mia, Arsenio Auto, Mansueto Antojado and Hipolito Gesmundo, and its directing the reinstatement of the other dismissed employees who should accordingly be paid the corresponding back wages, less whatever they received during their temporary reemployment pending decision of the case.

WHEREFORE, the petition is hereby dismissed. No costs.

Concepcion, C.J., Makalintal, Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, and Antonio, JJ., concur.

[1] This case was still pending when the injunction case was resolved by the Industrial Court (page 1 2,

Petitioner's brief).

[2] The "Resolution", with the 3 separate opinions of Judges Martinez, Tabigne and Salvador, was promulgated on 6 November 1968, and was received by the union on 11 November 1968.

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