

SHELL OIL WORKERS' UNION, PETITIONER, VS. SHELL COMPANY OF THE PHILIPPINES, LTD., AND THE COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-28607. February 12, 1972

Ponente: FERNANDO, J.

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FERNANDO, J.:

The decision sought to be reconsidered by respondent Shell Company of the Philippines, Ltd. upheld the validity of a strike conducted by the Shell Oil Workers' Union and thus reversed an appealed decision from respondent Court of Industrial Relations.[1] It was arrived at unanimously, although there was a concurring opinion by Justice Antonio Barredo, with whom Justices J.B.L. Reyes and Querube Makalintal were in agreement. At that time, Justice Fred Ruiz Castro was on official leave and therefore could not take part. He has now expressed his conformity with the opinion of the Court as rendered. Justice Claudio Teehankee, however, would join the two other Justices in support of the concurring opinion of Justice Barredo. Former Justice Dizon, who concurred in the result, had since then been retired. After a careful study of the extensive motion for reconsideration, this Court, in accordance with the two opinions, is once again unanimous in sustaining the validity of the strike.

The concurrence by Justice Barredo was prompted by his differing with the majority of the Court as to the existence of facts in the record which would indicate a violation of the collective bargaining agreement, thus resulting in the strike by petitioner Union. Nonetheless, he was likewise for the reversal of the decision of the Court of Industrial Relations for, as he pointed out: "All these, however, do not mean, on the other hand, that petitioner's strike should necessarily be held to be illegal. It is always a wholesome attitude in cases of this nature to give but secondary importance to strict technicalities, whether of substantive or remedial law, and to constantly bear in mind the human values involved which are beyond pecuniary estimation. As a general rule, labor's most potent and effective weapon is the strike, and it is but natural that when things appear to be dimming on the negotiation tables, labor should almost instinctively take a striking posture. In other words, the determination of the legality or illegality of a strike, particularly in this enlightened era of progressive thinking on labor-management relations is something that cannot be achieved by mere straight-jacketed legalistic argumentation and rationalization; the process is broader and deeper than that, for to do justice in deciding such an issue, it is imperative that utmost consideration should be given to the particular circumstances of each case, with a view to having the most comprehensive understanding of the motivations of the parties, in the light of human needs, on the part of labor, and in the perspective of the orderly and economical conduct of business and industry, on the part of management. In this particular case, for instance, I cannot agree that respondent has violated its collective bargaining agreement with petitioner, but, on the other hand, I am not ready to conclude that for this reason, the strike here in question was consequently illegal. I hold that the two strike votes taken by the members of the petitioning union were both premised on the sincere and honest belief that there was a legal breach of the said agreement." [2]

Such an approach was reflected in this portion of the opinion of the Court: "As a matter of fact, this Court has

gone even further. It is not even required that there be in fact an unfair labor practice committed by the employer. It suffices, if such a belief in good faith is entertained by labor, as the inducing factor for staging a strike. So it was clearly stated by the present Chief Justice while still an Associate Justice of this Court: 'As a consequence, we hold that the strike in question had been called to offset what petitioners were warranted in believing in good faith to be unfair labor practices on the part of Management, that petitioners were not bound, therefore, to wait for the expiration of thirty (30) days from notice of strike before staging the same, that said strike was not, accordingly, illegal and that the strikers had not thereby lost their status as employees of respondents herein.'"[3]

In the light of the above, it is apparent why, notwithstanding the vigorous plea made in the motion for consideration, there would be no legal justification for touching a different conclusion from that arrived at in our decision of May 31, 1971.

1. More specifically, it is urged on this Court by respondent Shell Company of the Philippines, Ltd. that the failure to abide by the terms of a collective bargaining agreement should not be considered an unfair labor practice. It is much too late in the day for such a contention to be advanced. Such a view runs counter to decisions of this Court that go back to 1967. The ruling was first announced by this Court through Justice Castro in *Republic Savings Bank vs. Court of Industrial Relations*.^[4] It was subsequently followed in *Security Bank Employees Union vs. Security Bank and Trust Company*;^[5] *Manila Hotel Company vs. Pines Hotel Employees Association*^[6] and *Alhambra Industries, Inc. vs. Court of Industrial Relations*.^[7] There is no merit either for the argument advanced in the motion for reconsideration that the decision in this case would justify violence and thus negate the rule of law. A more careful reading of what was set forth in our decision should suffice to demonstrate that such misgivings are unjustified. As was set forth therein: "Respondent Court was likewise impelled to consider the strike illegal because of the violence that attended it. What is clearly within the law is the concerted activity of cessation of work in order that a union's economic demands may be granted or that an employer cease and desist from an unfair labor practice. That the law recognizes as a right. There is though a disapproval of the utilization of force to attain such an objective. For implicit in the very concept of a legal order is the maintenance of peaceful ways. A strike otherwise valid, if violent in character, may be placed beyond the pale. Care is to be taken, however, especially where an unfair labor practice is involved, to avoid stamping it with illegality just because it is tainted by such acts. To avoid rendering illusory the recognition of the right to strike, responsibility in such a case should be individual and not collective. A different conclusion would be called for, of course, if the existence of force while the strike lasts is pervasive and widespread, consistently and deliberately resorted to as a matter of policy. It could be reasonably concluded then that even if justified as to ends, it becomes illegal because of the means employed."[8]

2. There must have been, on the part of respondent Shell Company of the Philippines, Ltd., a realization that the unanimity displayed by this Court in reaching its conclusion would, from the realistic standpoint, preclude undue optimism. Thus, there was an alternative prayer. Respondent Shell Company of the Philippines, Ltd. seeks to have the twelve officers of the Union denied reinstatement and he given a money award instead, the employee status of Nestor Samson, Jose Rey, Romeo Rosales, Antonio Labrador and Sesonando Romero be terminated for committing serious acts of violence, and the reinstatement of the seventeen security guards be without backpay. While obviously, in the light of the legal doctrines announced, the reinstatement of the twelve officers of the Union who were dismissed merely because they were such, as well as that of the security guards, was a logical and legal consequence of the decision reached, there appears to be merit in its plea that the employee status of the five above-named individuals be terminated. A reappraisal of the evidence would indicate that Nestor Samson did beat driver Arsenio Alejo with such force as to cause him to fall down with his eyes "popping out." As for Jose Rey and Romeo Rosales, they were among those who attacked Marcos Prieto, the Company's Iloilo Installation Manager, resulting in the latter's hospitalization for thirty-two days. The violence exerted by Sesonando Romero

and Antonio Labrador, by design and in concert, upon the two helpless victims, Arturo Mallari, the lorry driver, and his helper, Avelino Ruiz, were likewise of such magnitude as to entail the loss of employee status.

WHEREFORE, with the modification of our decision of May 31, 1971 in that by this Resolution the employee status of Nestor Samson, Jose Rey, Romeo Rosales, Sesinando Romero and Antonio Labrador is likewise deemed terminated as in the cases of Ricardo Pagsibigan, Daniel Barraquel, Gregorio Bacsá, Conrado Peña, and Ernesto Crisostomo, the same is reiterated all respects, and the motion for reconsideration of respondent Shell Company of the Philippines, Ltd. is denied.

Concepcion, C.J., Reyes, J. B. L., Makalintal, Zaldivar, Castro, Villamor, and Makasiar, JJ., concur.

Teehankee and Barredo, JJ., see concurring and dissenting opinion.

[1] L-28607, May 31, 1971, 39 SCRA 276.

[2] Ibid, p. 299.

[3] Ibid, pp. 288-289.

[4] L-20303, Sept. 27, 1967, 21 SCRA 226.

[5] L-28536, April 30, 1968, 23 SCRA 503.

[6] L-24314, Sept. 28, 1970, 35 SCRA 96.

[7] L-25984, Oct. 30, 1970, 35 SCRA 550.

[8] Ibid, p. 292.

CONCURRING AND DISSENTING OPINION

TEEHANKEE, J.:

The original decision of May 31, 1971 of the Court penned by Mr. Justice Fernando and concurred in by me, reversed the industrial court's finding of illegality of the strike declared by the union on May 25, 1967 as not being in accordance with law. Accordingly, as to the eighteen security guards, the Court found that there was an assurance of their security of tenure in the collective bargaining agreement effective from August 1, 1966 to December 31, 1969, and that the employer could not unilaterally violate such security of tenure and dismiss them, by invoking "provisions in the collective bargaining agreement couched in general terms, merely declaratory of certain management prerogatives." The Court, therefore, issued the following judgment as to said security guards:

"* * * Accordingly, the dismissal by the Shell Company on May 27, 1967 of the eighteen security guards, with the exception of Ernesto Crisostomo, who was found guilty of committing a serious act of violence is set aside and they are declared reinstated. The continuance of their status as such is, however, dependent on whether or not a security guard section is provided for in the collective bargaining contract entered into after the expiration of the contract that expired on December 31, 1969. * * * The rest of the employees laid off should be reinstated with back pay to be counted from the date they were separated by virtue of the appealed decision, from which should be deducted whatever earnings may have been received by such employees during such period. The case is hereby remanded to respondent Court for the implementation of this decision. In ascertaining the back wages to which the security guards are entitled, it must likewise be ascertained whether or not the security guard section is continued after December 31, 1969. Without costs."

The present Resolution on the company's motion for reconsideration denies the said motion and affirms the original decision with the sole modification that the employee status of five officers and employees headed by Nestor Samson and named in the Resolution at bar was likewise terminated in view of the showing that the individual acts of violence committed by them were of a serious nature.

I concur in this portion of the Resolution.

The point of dissent now raised by Mr. Justice Barredo in his separate opinion is from that portion of the original decision, *supra*, adjudging that "the continuance of their status as such is, however, dependent on whether or not a security guard section is provided for in the collective bargaining contract entered into after the expiration of the contract that expired on December 31, 1969. * * * [and] In ascertaining the back wages to which the security guards are entitled, it must likewise be ascertained whether or not the security guard section is continued after December 31, 1969."

Mr. Justice Barredo submits that the company's incentive offer to the security guards prior to the strike of May 25, 1967 (now held not to be illegal) to transfer them to other positions in the company with an increase in pay and with a transfer bonus should still be made available now to them (more specifically, those who have not been herein found guilty of having personally committed serious illegal acts or violent acts). He accordingly submits that said security guards should now be reinstated, no longer as security guards (since the company had already contracted out its security service) but to the positions to which they were proposed to be transferred by the company, regardless of whether the security guard section has been discontinued in the new collective bargaining agreement executed after the expiration on December 31, 1969 of the previous agreement.

I join Mr. Justice Barredo in his dissent on this point, since the case was sub judice until the Court handed down its decision of May 31, 1971, and the benefits of the Court's decision should not be denied to said security guards. The Court therein ordered the reinstatement of the security guards on the strength of its finding that the company violated their security of tenure as stipulated and assured in the collective bargaining agreement in unilaterally dismissing them on May 27, 1967. Had this decision been rendered prior to the expiration of the collective bargaining agreement on December 31, 1969, the union certainly would not enter into a new collective bargaining agreement doing away with the security guard section, without at least insisting that the company make good its previous incentive offer of transferring them to other positions with increase in pay and a transfer bonus, or some other incentive proposal as would be acceptable to the union and the security guards.

Should the security guard section have been continued in the new collective bargaining agreement after December 31, 1969, there would be no point of dissent, for then, according to the original decision, as herein affirmed, the security guards are entitled to reinstatement to their former positions with back wages less their earnings during the period of dismissal.

Should such new collective bargaining agreement, however, have abolished the security guard section after December 31, 1969, then I vote, with Mr. Justice Barredo, that the security guards entitled to reinstatement should be so reinstated by the company to the new positions to which the company had offered to transfer them with pay increase and transfer bonus prior to the strike or to some other positions mutually acceptable to them.

CONCURRING AND DISSENTING OPINION

BARREDO, J.:

Going over the decision in this case, I find it difficult to reconcile myself with the result that it ordains for the security guards whose continued employment with respondent is being made dependent on the provisions of the collective bargaining agreement subsequent to the one in force when this case arose, having held, as I firmly believe that the respondent did, after all, offer to retain all of them in other jobs shades better than their positions as security guards. I am well aware that the union rejected respondent's offer, but I hesitate to make the security guards suffer from this action of the union precisely because of my finding regarding the personal reasons which the Court of Industrial Relations found as a fact motivated the union leaders, with which motivation there is no showing that the security guards had more than a passive part. If the security guards acted in good faith in going along with the union vote to strike and the strike itself has been held not to be illegal, it is beyond my comprehension why the respondent cannot be compelled to restore the situation that would have obtained had its offer been accepted by the union. I do not consider it material whether or not the collective bargaining agreement upon which the main opinion bases the fate of the security guards is silent on the point, nor am I convinced that when the parties entered into it, they had any inkling as to how this case would be decided. Under the circumstances, I prefer, impelled by the constitutional mandate to protect labor, to hold that as a matter of law, the respondent employed the workers, it might have taken in to replace the security guards herein involved, subject to the results of this case, even as I maintain that it has not committed any unfair labor practice in contracting out its security service. In brief, my vote is not only for the Court to deny in the sense stated in the main denial resolution penned by Justice Fernando the motion for reconsideration of respondent but also to order it to reinstate the security guards, other than those found guilty of having personally committed illegal acts, in the positions which were offered to them before this case arose, notwithstanding the absence of any motion for reconsideration to such effect by the petitioner, the whole case being still entirely within Our jurisdiction.

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