

SCOTY’S DEPARTMENT STORE, ET AL., PETITIONERS VS. NENA MICALLER, RESPONDENT.*G.R. No. L-8116. August 25, 1956*

Ponente: BAUTISTA ANGELO, J.

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This is a petition for review of an order issued by Hon. Jose S. Bautista, Associate Judge, Court of Industrial Relations, finding respondents, now petitioners, guilty of unfair labor practice and imposing upon them a fine of P100, at the same time ordering them to reinstate petitioner, now respondent, Nena Micaller, with back pay from December 1, 1953 until her actual reinstatement, which was affirmed by the court en banc in its resolution of August 14, 1954.

Nena Micaller was employed as a salesgirl in the Scoty's Department Store situated at 615 Escolta, Manila. This store was owned and operated by Yu Ki Lam, Richard Yang, Yu Si Kiao and Helen Yang. Pursuant to section 5(&) of the Industrial Peace Act, Nena Micaller filed charges of unfair labor practice against her above employers alleging that she was dismissed by them because of her membership in the National Labor Union and that, prior to her separation, said employers had been questioning their employees regarding their membership in said union and had interfered with their right to organize under the law.

The employers denied the charge. They claimed that the complainant was dismissed from the service because of her misconduct and serious disrespect to the management and her co-employees so much so that several criminal charges were filed against her with the city fiscal 'of Manila who, after investigation, filed the corresponding informations against her and the same are now pending trial in court.

After due hearing, where both parties presented their respective evidence, the court found the following facts: Prior to November, 1953, Nena Micaller was earning P4.80 a day. After every New Year, she was given from P180 to P200 as bonus whereas the other employees were only given P60. For three consecutive years, 1950, 1951 And 1952, she was given a first prize for being the best seller, the most cooperative and most honest employee. One week before October 12, 1953, she organized a union .among the employees of the store which was latter affiliated with the National Labor Union. Later, the National Labor Union sent a petition to the store containing ten demands and so Nena was called by the management for questioning and, in the manager's office, Yu Ki Lam, Richard Yang, Yu Si Kiao and Helen Yarig asked her who were the members of the union, but she pretended not to know them. On October 18, 1953, Richard Yang and Yu Si Kiao, together with a brother-in-law, went to the house of Nena and there again questioned her regarding her union membership. On October 19, Nena was brought by her employers to the house of their counsel, Atty. Joaquin Yuseco, and there she was again questioned regarding her union activities and was even made to sign a paper of withdrawal from the union. In the night of October 19, the manager of the Store, Yu Ki Lam, asked each and every employee whether they were members of the union threatening to close the store if they would not dissolve the union. On October 31, the union gave notice to strike to the management. Upon receipt of this notice, the management hired temporary employees equal in number to the old. The new employees were affiliated with another labor union.

On November 28, 1953, an information for threats was filed against Nena Micaller before the municipal court. This case was dismissed. Another information was filed against Nena Micaller for slander. She was sentenced to pay a fine of P50 but the decision was appealed to the court of first instance. A third information for slander was filed against her before the same court. And on November 30, she was dismissed for "insulting the owner of the store, Yu Ki Lam, on November 5, and for talking to the girls inside the store during business hours." And on the strength of these facts the court found respondents, now petitioners, guilty of unfair labor practice and ordered them to pay a fine of P100.

Petitioners now contend that the industrial court erred in finding (1) that Nena Micaller was dismissed because of her membership in the National Labor Union and her union activities; (2) that petitioners have committed unfair labor practice; and (3) that petitioners can be legally punished by a fine of P100.

We are afraid that we cannot now look into points 1 and 2 for they involve questions of fact. The industrial court has made a careful analysis of the evidence and has found that petitioners have really subjected complainant and her co-employees to a series of questioning regarding[^] their membership in the union or their union activities which in contemplation of law are deemed acts constituting unfair labor practice [Section 4, (a) (4), Republic Act No. 875]. This finding is binding upon this Court following well-known precedents.[1]

Our law on this point is of recent enactment and so we may find difficulty in determining what acts or circumstances may constitute unfair labor practice within its purview for lack of appropriate precedents. However, there are many American cases that may be resorted to where an employer charged with discriminatory dismissal has been found guilty of unfair labor practice under similar circumstances and was given the corresponding sanction. One of such cases, which in our opinion is on all fours with the present, is *NLRB vs. Harris-Woodson Co.* (CCA-4, 1947, 179 F 2d 720) where the following was held:

"As to the Board's finding of interference, there is abundant evidence of the questioning of employees as to membership in the union and of anti-union expressions by the company's superintendent made in such a way as to discourage union membership. The rule with respect thereto is well settled and was stated by us recently in the case of *NLRB vs. Norfolk-Southern Bus Corp.*, 159 Fed 2d 518, where we said:

'Questioning of employees concerning union membership and activities and disparaging remarks by supervisory employees made in such a way as to hamper the exercise of free choice on the part of the employees, have been uniformly condemned as a violation of the Act. *H. V. Heinz Co. vs. NLRB*, 311 US 514, 518, 61 S. Ct. 320, 85 L Ed 309; *Virginia Electric & Power Co. vs. NLRB*, 4 Cir., 132 F. 2d 390, 392-395; *NLRB vs. Baltimore Transit Co.*, 4 Cir., 240 F 2d 51, 56; *Piedmont Shirt Co. w. NLRB*, 4 Cir., 133 F 2d 738'

"As to the discharge of Edna B. Elder, the president of the union, it appears that she was discharged in the Spring of 1945 at the time when the question of union representation was becoming acute. The Company contends that the ground of the discharge was insubordinate language and conduct, and evidence of a controversy between the employer and the superintendent of the company was introduced. The Board took the view, however, that this was not the true reason for the discharge, but only a pre-text. It was shown that Mrs. Elder was a competent and efficient employee with a long record of faithful service, and that controversies and even quarrels between the employees and the superintendent had not theretofore led to discharge. According to Mrs. Elder's testimony, which was accepted by the Board, the controversy was of a very minor character and furnished no sufficient justification for the peremptory discharge of an efficient employee with a long record of service. Under such circumstances, the Board may very well have concluded that the true reason for the discharge was other than the one given, and was to be found in the position Mrs. Elder held in the union and her activity in its behalf. This is all the more reasonable in view of the manifest anti-union bias of the company's officers and superintendent and of the controversy with regard to the recognition of the union which had just been revived . . ."

The next question to be determined is whether the industrial court is justified in imposing a fine not only upon Yu Ki Lam, who was the manager of the store, but also upon Richard Yang, Yu Si Kiao and Helen Yang, who were mere owners thereof but had no participation in its management. Petitioners contend that section 25 of Republic Act No. 875 being penal in character should be strictly construed in favor of the accused and in that sense their guilt can only be established by clear and positive evidence and not merely be presumptions or inferences as was done by the industrial court. In other words, it is contended that the evidence as regards unfair labor practice with reference to the three above-named petitioners is not clear enough to serve as basis of their conviction for unfair labor practice and the fine imposed upon them is unjustified.

This question requires a little digression on the issue of whether the Court of Industrial Relations has jurisdiction to impose the penalties prescribed in section 25 of Republic Act No. 875.

"Sec. 25. Penalties.—Any person who violates the provisions of section three of this Act shall be punished by a fine of not less than one hundred pesos nor more than one thousand pesos, or by imprisonment of not less than one month nor more than one year, or by both such fine and imprisonment, in the discretion of the Court.

"Any other violation of this Act which is declared unlawful shall be punished by a fine of not less than fifty pesos nor more than five hundred pesos for each offense."

The above provision is general in nature for it does not specify the court that may act when the violation charged calls for the imposition of the penalties therein provided. It merely states that they may be imposed in the discretion of the court." Does the word "Court" employed therein refer to the Court of Industrial Relations under section 2 (a.) of the same Act which provides that, "Court" means the Court of Industrial Relations * * * unless another Court shall be specified?"

After a mature deliberation, this Court has reached the conclusion that, said provision notwithstanding, that word cannot refer to the Court of Industrial Relations for to give that meaning would be violative of the safeguards guaranteed to every accused by our Constitution. We refer to those which postulate that "No person⁷ shall be held to answer for a criminal offense without due process of law" [Article III, section 1, (15), Philippine Constitution], and that "In all criminal prosecutions the accused * * * shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses in his behalf" [Article III, section 1, (17)]

The procedure laid down by law to be observed by the Court of Industrial Relations in dealing with unfair labor practice cases negates those constitutional guarantees to the accused. And this is so because, among other things, the law provides that "the rules of evidence prevailing in courts of law or equity shall not be controlling .and it is the spirit and intention of this Act that the Court (of Industrial Relations) and its members and Hearing Examiners shall use every and all reasonable means to ascertain the facts in each case speedily and objectively and without regard to technicalities of law or procedure." It is likewise enjoined that "the Court shall not be bound solely by the evidence presented during the hearing but may avail itself of all other means such as (but not limited to) ocular inspections and questioning of well-informed persons which results must be made a part of the record" [section 5 (b), Republic Act No. 875], All this means that an accused may be tried without the right "to meet the witnesses face to face" and may be convicted merely on preponderance of evidence and not beyond reasonable doubt. This is against the due process guaranteed by our Constitution. It may be contended that this gap may be subserved by requiring the Court of Industrial Relations to observe strictly the rules applicable to criminal cases to meet the requirements of the Constitution, but this would be tantamount to amending the law which is not within the province of the judicial branch of our Government.

A comparative study of the jurisdiction of the Court of Industrial Relations and of that of the Court of Agrarian Relations created by Republic Act No. 1267 is enlightening. Note that both Acts (No. 875 and No. 1267) contain a general provision prescribing, in one a penalty of "a fine of not less than one hundred pesos nor more than one thousand pesos, or by imprisonment of not less than one month nor more than one year, or by both such fine and imprisonment, in the discretion of the Court", (section 25, Republic Act No. 875) and, in the other, a penalty of "a fine not exceeding two thousand pesos or imprisonment not exceeding one year, or both, in this discretion of the Court" (section 14, Republic Act No. 1267), upon any person who violates any of the provisions therein specified. But while Republic Act No. 875, as affects in Court of Industrial Relations, is silent as to the procedure to be followed in the prosecution of the offense, Republic Act No. 1267 as affects the Court of Agrarian Relations, provides that "Criminal proceedings should be prosecuted as in ordinary cases" (section 10). This is a clear indication that when Congress intends to confer criminal jurisdiction upon an administrative court, it expressly says so in an unmistakable language. Again, Congress has made its intention clear when it amended the law by eliminating entirely this criminal jurisdiction originally conferred upon the Court of Agrarian Relations. This was made manifest when Congress enacted Republic Act No. 1409 repealing those provisions affecting the criminal Act No. 1409 repealing those provisions affecting the criminal jurisdiction aforementioned (sections 7 and 10).

It would not be amiss to quote hereunder portions of the legislative record containing the deliberations made on the bill eliminating the criminal jurisdiction of the Court of Agrarian Relations, which show that the real intent of Congress was to place that court on the same footing as the Public Service Commission and the Court of Industrial Relations by confining their jurisdiction exclusively to civil matters:

"MR. MARCOS. Mr. Speaker, will the sponsor of the bill yield? I should like to ask some questions regarding the amendments of the Committee to the Court of Agrarian Law.

"The SPEAKER. The sponsor may yield, if he so desires.

"MR. FRANCISCO. With pleasure.

"MR. MARCOS. I should like to call the attention of the distinguished chairman of the Committee on Judiciary to page 3 of the bill of the committee which amends section 10 of the Agrarian Court Law, Republic Act No. 1267. The gentleman, in the bill of the committee on page 3, line 11, struck out the words 'not criminal in nature', so that it reads on line 11:

'Provided, however, That in the hearing, investigation and determination of any question or controversy (the gentleman struck out the words 'not criminal in nature') and in exercising any duty and power under this Act, the court shall act according to justice and equity and substantial merits of the case without regard to technicalities or legal forms, etc.'

Now, we find on lines 17 and 18 that the whole sentence 'Criminal Proceedings should be prosecuted as in ordinary cases' was stricken out also. There seems to be a little ambiguity, and from this ambiguity arises my doubt as to the propriety of removing from the Agrarian Court the applicability of the rules of evidence, because if these amendments of the committee will be interpreted to mean that the Agrarian Court shall have jurisdiction over criminal cases which may arise, then it will be highly improper to disregard the rules of evidence in such criminal trials. Now, may I know from the distinguished chairman if the purpose of these amendments of the committee is to continue with the criminal jurisdiction of the Agrarian Court, or to remove from the Agrarian Court such other criminal jurisdiction?

"MR. FRANCISCO. The purpose of the committee is to remove completely from the Agrarian Court any jurisdiction over criminal matters.

"MR. MARCOS. I see. Now, does this refer only to criminal jurisdiction referred to on page 3, lines 2 and 3, which reads as follows:

'The Court shall have concurrent jurisdiction with the Court of First Instance over employer and farm employee or labor under Republic Act Numbered Six hundred two and over landlord and tenant involving violations of the Usury Law (Act No. 2655, as Amended) and of inflicting penalties provided therefore.'

Or does it refer to other cases of criminal jurisdiction?

"MR. FRANCISCO. It refers to all cases of criminal jurisdiction. As proof of that, the gentleman from Ilocos Norte will please note that section 8 of the bill seeks the repeal of Section 14 of the law. "Mr. Marcos. Yes, in short, therefore,, the Agrarian Court is deprived of all cases of criminal jurisdiction.

"MR. FRANCISCO. The gentleman is correct

"Mr. Marcos. And the only jurisdiction that this Agrarian Court will retain, therefore, will be civil jurisdiction. Is that right?

"MR. FRANCISCO. As far as the nature involved, is civil, yes.

"MR. MARCOS. Other than criminal?

"MR. FRANCISCO. Yes.

"MR. MARCOS. That is as provided for in the Tenancy Law.

"MR. FRANCISCO. The gentleman is correct."

"Mr. Cuenco. According, to the exposition of the gentleman on this bill last night, which was quite convincing, the court that is sought to be established by this bill will exercise quasi-judicial function and this court will be similar in nature to the Public Service Commission and to the Court of Industrial Relations. Am I right?

"MR. FRANCISCO. The gentleman is correct

"Mr. Cuenco. So, strictly speaking, there is no necessity to put here a proviso that this court shall have no jurisdiction over proceedings criminal in nature.

"MR. FRANCISCO. But we have to introduce such an amendment in view of the provisions of Republic Act No. 1267 which gives the Court of Agrarian Relations criminal jurisdiction. We are removing by this act the criminal jurisdiction of the Agrarian Court.

"Mr. Cuenco. But I will go further than that. Inasmuch as this is a new court whose functions are not yet known to our people and to the bar, will not the gentleman entertain an amendment to Section 1, on page 1, line 8, after the word "justice" that will reads as follows: 'Provided, however, That this court shall exercise no jurisdiction over proceedings criminal in nature', just to avoid confusion?

"MR. FRANCISCO. The committee will be willing to entertain such an amendment." (Congressional Record, House of Representatives, No. 10, July 20, 1955, pp. 3778-5779; 3780.) (Italics supplied.)

In conclusion, our considered opinion is that the power to impose the penalties provided for in section 25 of Republic Act No. 875 is lodged in ordinary courts, and not in the Court of Industrial Relations, notwithstanding the definition of the word "Court" contained in section 2 (a) of said Act. Hence, the decision of the industrial court in so far as it imposes fine of P100 upon petitioners is illegal and should be nullified.

Wherefore, the decision appealed from is modified by eliminating the fine of P100 imposed upon petitioners. In all other respects, the same is affirmed, without pronouncement as to costs.

Bengzon, Padilla, Montemayor, Labrador, Concepcion, Reyes, J. B. L. Endencia, and Felix, JJ., concur.

[1] Barwill Bros. vs. Generoso, 38 Off. Gaz., 2721; Central Azucarrera vs. Court, 40 Off. Gaz., 3rd Sup., 319; Del Rosario vs Benguet, 40 Off. Gaz., 4466; Elks Club vs. Rovira, 45 Off. Gaz., 3829;Kaisahan vs. Gotamco Sawmill, 45 Off. Gaz., Sup. to No. 9, 147;Yellow Taxi vs. Manila Yellow Taxicab, 45 Off. Gaz., 4856; LeyteLand Trans, vs. Leyte Farmers, 45 Off. Gaz., 4862; Batangas vs.Bagong Pagkakaisa, 46 Off. Gaz., 4236; Dee C. Chuan vs Court,86 Phil, 365, 47 Off. Gaz., 3476,

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