

**LEONARDO GONZALES, TEODORO B. RACCA, MAURO MAGHIRANG,
MARCELINO BALTAZAR, FLORENTINO RAYMUNDO, BERNAVEDA
BENAVIDES, ROSARIO DE LA CRUZ, EUGENIA DE LA TORRE,
GERMAN ADRIOSOLA, AN...**

G.R. No. L-49524. September 11, 1982

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

APPEAL by certiorari from the decision of the Secretary (now Minister) of Labor which affirmed the dismissal, by the National Labor Relations Commission, of the complaint filed in NLRC Case No. 6065-ULP, entitled: "Leonardo Gonzales, et al., complainants, versus Smith Bell & Co., et al., respondents," upon the ground that it is barred by a prior judgment or res adjudicata.

It is not disputed that the herein petitioners were employees of the Philippine Business Forms, Inc. and members of a labor union known as the SAMAHANG PINAGBUKLOD NG MGA MANGGAGAWA SA PHILIPPINE BUSINESS FORMS, INC. Due to some misunderstanding with the management, the petitioners went on strike on March 15, 1965 and picketed the premises of the said corporation. Thereafter, the petitioners' union filed a complaint for unfair labor practice against the said company with the defunct Court of Industrial Relations, docketed therein as Charge No. 446-ULP, for committing the following unfair labor practices:

1. Illegal dismissal of Romeo Cayetano;
2. Illegal withholding of union dues;
3. Refusal to bargain; and
4. Restraining and coercing employees, as well as interfering with the exercise of their right to self-organization.

The Philippine Business Forms, Inc., in turn, filed a counter-charge for unfair labor practice against the petitioners with the Court of Industrial Relations, docketed therein as Charge No. 466-ULP, later designated as Case No. 5079-ULP, for committing the following unfair labor practices:

1. That on March 14, 1965, the complainants in utter defiance of the collective will of the majority who were not even given the opportunity of voicing their choice in the strike and without the consent of the PTGWO, wilfully, maliciously and irresponsibly struck in direct and flagrant violation of the law and the collective bargaining contract in which the complainants were and are participants; and
2. For restraining or coercing employees in the exercise of their rights to self-organization.

On March 31, 1965, the petitioners offered to return to work. But, they were refused by the management.

In October, 1968, the Philippine Business Forms, Inc. sold its entire printing business and equipment to the

Pioneer Business Forms, Inc. Later, or on July 25, 1969, the Articles of Incorporation of the Philippine Business Forms, Inc. were amended and its name was changed to Belisle Investment and Financing Corporation, Inc., whose primary purpose was investment and financing.

Meanwhile, On February 5, 1969, the Court of Industrial Relations, upon motion of the CIR Prosecutor, dismissed Charge No. 446-ULP, on the ground that the complainants failed to establish a prima facie case.

On September 18, 1969, the Court of Industrial Relations also dismissed the unfair labor practice charges filed by the management against the herein petitioners.

One year and a half later, or on March 30, 1971, the herein petitioners reiterated their offer to return to work. The management, however, refused to take them in. Whereupon, the herein petitioners filed a complaint for reinstatement with back wages against the Philippine Business Forms, Inc., and Smith Bell & Company with the Court of Industrial Relations, docketed therein as Charge No. 4327. But, while this case was undergoing preliminary investigation, Presidential Decree No. 21 was issued on October 14, 1972, creating the (Ad Hoc) National Labor Relations Commission, with original and exclusive jurisdiction over the following:

- "1. All matters involving employee-employer relations including all disputes and grievances which may otherwise lead to strikes and lockouts under Republic Act No. 875;
- "2. All strikes overtaken by Proclamation No. 1081; and
- "3. All pending cases in the Bureau of Labor Relations."

As a result, the petitioners filed a similar complaint for reinstatement with back wages with the (Ad Hoc) National Labor Relations Commission, docketed therein as NLRC (Ad Hoc) Case No. 0385, charging the Philippine Business Forms, Inc., Smith Bell & Co., Ltd., and the Pioneer Business Forms, Inc. with unfair labor practice, as follows:

- "1. Discrimination in regard to hire or tenure of employment;
- "2. Dismissal of an employee; and
- "3. Refusal to bargain."

The respondents therein filed a motion to dismiss the complaint on the grounds that: (1) the Commission had no jurisdiction over the case; (2) the subject matter had already been decided on the merits by the Court of Industrial Relations; (3) complainants were guilty of laches and were in estoppel; and (4) complainants had no valid cause of action against the respondent because employment at the Philippine Business Forms, Inc. was no longer feasible, the printing business and equipment in which complainants were employed having been sold to Pioneer Business Forms, Inc. as of October, 1968 and complainants having committed misconduct which constitutes just cause for dismissal. After hearing, the NLRC Mediator recommended that the motion to dismiss should be sustained, saying:

"NLRC Case No. 0385 re REINSTATEMENT WITH BACKWAGES has become moot and academic with the dismissal of Charge No. 446-ULP filed by herein complainants to have respondents guilty of unfair labor practice.

"REASON: The strike staged in 1965 by complainants for unfair labor practices hinges on the outcome of Charge No. 446-ULP filed before the CIR Presiding Judge Arsenio I. Martinez, in its Order of Dismissal dated February 5, 1969, sustained the motion to dismiss filed by the Court Prosecutor 'on the ground that complainants failed to established a prima-facie case.' And by implication, the strikers lost its right to reinstatement with backwages.

"The CIR likewise failed to rule on the issue of reinstatement with backwages when it subsequently dismissed management Charge No. 466-ULP (Case No. 5079-ULP). Judge Paredes issued a dismissal Order of September 18, 1969 without categorically touching on the legality of its strike and the right to reinstatement with backwages. Ironically, the decision has become final and executory. The proper forum for relief in this case is the CIR, not the Commission." [1]

On January 18, 1973, the (Ad Hoc) National Labor Relations Commission dismissed the complaint on the ground it is barred by prior judgments or *res adjudicata*, it appearing that the cause of action in said complaint was the subject, among others, of Charges Nos. 446-ULP and 466-ULP of the Court of Industrial Relations, both of which were dismissed by the said court. [2] The petitioners filed a motion for the reconsideration of the order but their motion was denied on January 23, 1973. On appeal to the Secretary of Labor, the judgment was affirmed. [3] The petitioners also filed a motion for the reconsideration of the order, but their motion was likewise denied. [4] No further appeal having been made, the judgment became final and executory.

On November 17, 1973, the CIR Prosecutor, after conducting further preliminary investigation on Charge No. 4327, filed a complaint for reinstatement with backwages against the respondents Smith Bell & Co., Inc. and/or Pioneer Business Forms, Inc. and/or Philippine Business Forms, Inc. and/or Belisle Investment & Finance Co., Inc. The case was docketed as CIR Case No. 6065-ULP. Upon the abolition of the Court of Industrial Relations on November 1, 1974, the case was transferred to the National Labor Relations Commission, where the respondents therein again filed a motion to dismiss the case on February 20, 1975, on the ground that the cause of action was barred by prior judgment. [5]

Resolving the issue, the Labor Arbiter dismissed the complaint on the said ground. [6] On appeal to the National Labor Relations Commission, the decision was affirmed. [7] Thereafter, the petitioners appealed to the Secretary of Labor, but their appeal was dismissed on June 8, 1978, for lack of merit. [8] Hence, the present recourse.

The petitioners, as well as the Solicitor General, contend that there is no *res adjudicata* because NLRC (Ad Hoc) Case No. 0385 was not decided on the merits; and that the causes of action in NLRC (Ad Hoc) Case No. 0385 and NLRC Case No. 6065-ULP were not identical.

We find no merit in the petition. We fully agree with the Secretary of Labor, in his order affirming the decisions of the National Labor Relations Commission and the Labor Arbiter, and dismissing the complaint for reinstatement with backwages, filed in NLRC Case No. 6065-ULP, on the ground that the action is barred by a prior judgment rendered in NLRC (Ad Hoc) Case No. 0385, since there is identity of parties, identity of subject matter, and identity of cause of action. There is also no doubt that the (Ad Hoc) National Labor Relations Commission had jurisdiction to hear and determine the petitioners' complaint and the dismissal thereof was in the exercise of that jurisdiction. The dismissal of NLRC (Ad Hoc) Case No. 0385 was regular on its face and not tainted with fraud in its procurement and issuance. If the dismissal of the complaint was erroneous, the petitioners could have appealed to this Court. No such step having been taken, the said order of dismissal became final and executory. Whether rightly or wrongly, the said order stands and cannot now be set aside or rendered ineffective collaterally. That order is valid and binding upon the parties. The issue of reinstatement with backwages is, therefore, *res adjudicata* and no longer open for review in NLRC Case No. 6065-ULP.

The contention that the decision rendered in NLRC (Ad Hoc) Case No. 0385 was not a judgment on the merits is without merit. While it may be true that NLRC (Ad Hoc) Case No. 0385 was dismissed on the ground that it is barred by a prior judgment, the issue of reinstatement with backwages was raised by the petitioners therein so that the dismissal was a judgment on the merits. Thus, the Mediation Fact Finding Report submitted in said case reads, in part, as follows:

"ISSUE: Illegal dismissal due to status quo

RELIEF: Reinstatement with backwages

UNION POSITION: (Memorandum, December 1, 1972)

"1. That more than 70 union members staged a strike in 1965 and did not report for work;

"2. That they filed Charge No. 446-ULP before the CIR to declare management guilty of unfair labor practices;

"3. That in 1969, this Charge No. 446-ULP was dismissed;

"4. That Charge No. 466-ULP docketed as Case No. 5079-ULP, as counter-action by management, was filed to declare the strike illegal and to be allowed to dismiss the strikers;

"5. That management Charge No. 466-ULP (Case No. 5079-ULP) was also withdrawn by management and subsequently dismissed by the CIR;

"6. That the present complainants were victims of lock-out by management when in October, 1969, and before the termination of both charges in 1969 before the CIR, the respondents sold out the printing business to Pioneer Business Forms, Inc.

"RESPONDENTS POSITION: (Motion to Dismiss, January 2, 1973)

a. Respondents Philippine Business Forms, Inc. and Smith Bell & Co., Inc. filed a Motion to Dismiss based on the following grounds:

(1) the Hon. Commission has no jurisdiction of the case;

(2) the subject matter has already been decided on the merits by the CIR;

(3) complainants are guilty of laches and are in estoppel; and

(4) complainants have no valid cause of action against the respondents because employment at Philippine Business Forms, Inc. is no longer available, the printing business and equipments in which complainants were employed having been sold to Pioneer Business Forms, Inc. as of October, 1968 and complainants having committed misconduct which constitutes just cause for dismissal."^[9]

The rule is that "if both parties have been heard and have introduced testimony, or had an opportunity to do so, and the court, upon consideration of the law and facts as thus presented, dismisses the action, it is not a mere non-suit, but a judgment on the merits and a bar to any further suit on the same cause of action."^[10]

The petitioners' claim that the order dismissing the complaint in NLRC (Ad Hoc) Case No. 0385 "does not partake of the nature of 'judgment or order on the merits' contemplated by our Rules and the Supreme Court" since the said order was merely based on the Fact Finding Report of the Labor Mediator and issued "without the benefit of investigation or presentation of evidence in support of their respective stand," is also devoid of merit. In the case of *Manila Trading & Supply Co. vs. Philippine Labor Union*,^[11] the Court said: "When the Court of Industrial Relations refers a case to a commissioner for investigation, report and recommendation, and at such investigation the parties are duly represented by counsel, heard or at least given an opportunity to be heard, the requirements of due process has been satisfied even if the Court failed to set the report for hearing and a decision on the basis of such report, with the other evidence of the case, is a decision which meets the requirements of a fair and open hearing."

As for identity of the causes of action, the petitioners categorically stated that the cause of action in NLRC (Ad Hoc) Case No. 0385 is "Reinstatement and backwages due to illegal dismissal, 1971 when reinstatement was

refused," while the cause of action in NLRC Case No. 6065-ULP is "Reinstatement with backwages due to illegal dismissal of the Complainant-strikers." [12] In their complaint, filed in NLRC Case No. 6065-ULP, the petitioners alleged, among others, the following:

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"6. That on or about May 31, 1965, there was an unconditional offer to return to work made by herein complainants but the same was denied by respondent Philippine Business Forms, Inc.;

"7. That again, the same offer to respondents was reiterated on March 30, 1971, through counsel, but respondents refused to entertain the same;

"8. That up to the present, herein complainants are still out of work." [13]

For sure, the cause of action of the petitioners in NLRC Case No. 6065-ULP was also the alleged refusal of the respondents to reinstate them on May 31, 1965 which offer was reiterated on March 30, 1971.

Besides, the complaint for reinstatement with backwages, filed in NLRC Case No. 6065-ULP is but a reiteration of the complaint for reinstatement with backwages, filed in NLRC (Ad Hoc) Case No. 0385. NLRC Case No. 6065-ULP was originally Charge No. 5327, filed by the petitioners with the Court of Industrial Relations after the respondents herein refused their order to return to work on March 30, 1971. While this case was in the process of preliminary investigation in the said court, Presidential Decree No. 21 was issued on October 14, 1972, creating the (Ad Hoc) National Labor Relations Commission. Thereupon, the petitioners filed a similar complaint for reinstatement with backwages with the said Commission. The case was docketed therein as NLRC (Ad Hoc) Case No. 0385. When the case was dismissed by the Ad Hoc Commission on January 18, 1973, on the ground of res adjudicata, the petitioners pursued the charges (Charge No. 4327) they previously filed with the Court of Industrial Relations, after which a complaint for reinstatement with backwages was filed and docketed as CIR (now) NLRC Case No. 6065-ULP.

A plaintiff who deliberately selects his forum and then unsuccessfully presents his proofs, is bound by such adverse judgment in a second suit involving all the identical issues already decided. To hold otherwise, would allow repeated litigation of identical questions. [14] Litigations must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that once a judgment has become final, the issues raised therein should be laid at rest.

WHEREFORE, the petition should be, as it is hereby, DENIED. With costs against the petitioners.

SO ORDERED.

Barredo, (Chairman), Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur. Aquino, J., no part.

[1] Rollo, p. 50.

[2] Id., p. 54.

[3] Id., p. 34.

[4] Id., p. 35.

[5] Id., p. 63.

[6] Id., p. 30.

[7] Id., p. 39.

[8] Id., p. 47.

[9] Id., pp. 50-52.

[10] 34 C.J., p. 790.

[11] 71 Phil. 539.

[12] Rollo, p. 15.

[13] Id., p. 58.

[14] Perkins vs. Benguet Consolidated Mining Co., 93 Phil. 1053.

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