

CONFEDERATED SONS OF LABOR, PETITIONER, VS. ANAKAN LUMBER COMPANY, UNITED WORKERS' UNION AND COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-12503. April 29, 1960

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an unfair labor practice case instituted at the instance of the Confederated Sons of Labor against the Anakan Lumber Company and the United Workers' Union, hereafter referred to as the petitioner, the company and respondent union, respectively. The amended complaint filed with the Court of Industrial Relations charged said respondents with unfair labor practices committed by

A. Anakan Lumber Company—

- "by dominating, assisting and interfering with the administration of the respondent United Workers' Union and by contributing financial aid and other support to it, * * *.
- "in discriminating in regards to hire or tenure of employment for the purpose of encouraging membership in the respondent United Workers' Union and/or discouraging membership in the complainant Confederated Sons of Labor or because of union membership or activity by dismissing and in fact did dismiss without cause all its workers affiliated with the complainant union and replaced by new ones, * * *."

B. United Workers' Union—

"in causing the respondent Anakan Company to discriminate against the workers mentioned in Paragraph IV of the foregoing complaint in violation of Section 4(a), subparagraph 4 of the Act by demanding from the respondent Anakan Lumber Company the dismissal of said workers from their work therein, or in discriminating against them to whom membership in the respondent United Workers' Union have been terminated on grounds other than the usual terms and conditions of membership made available to other members by expelling them as members from the said Union in violation of the respondent union's Constitution and By-laws and who were subsequently dismissed by the respondent Anakan Lumber Company on demand by the respondent United Workers' Union, in violation of Section 4(b), sub-paragraph 2 of Republic Act No. 875."

On motion of petitioner and with the conformity of respondents, the Court of Industrial Relations issued, in the course of the trial, an order dismissing the charge of union domination against the company. Subsequently, upon submission of the case for decision on the merits, the presiding judge of said court issued an order, dated October 4, 1956, absolving respondent union, but finding the company guilty of unfair labor practices in dismissing 46 employees thereof, and ordering" said company "to cease and desist from engaging in unfair labor practice and to reinstate the 46 employees concerned, with back wages from the date of their separation from its service until reinstated." On motion for reconsideration filed by respondents, a majority of the members of the court, sitting in banc, reversed said order and dismissed the complaint, in a resolution dated December 28, 1956. Hence, this

petition for review by certiorari filed by petitioner herein.

It appears that respondent union has a membership of more than 1,000 laborers and employees of the company, with whom it entered, on January 23, 1955, into a contract entitled "Collective Bargaining and Closed Shop Agreement". Subsequently, 46 employees of the company and members of respondent union joined petitioner herein, which is another labor organization. As a consequence, said 46 employees were expelled from respondent union, pursuant to its constitution and by-laws. Thereafter, respondent union demanded from the company the dismissal of these 46 employees, upon the authority of Article II of said "Collective Bargaining and Closed Shop Agreement", and claiming to act in pursuance of such Article II and in compliance with the aforementioned agreement, the company dismissed said 46 employees. Inasmuch as they are members of petitioner herein, the latter caused this unfair labor practice proceedings to be instituted.

The main issue in the case at bar is whether the company was bound to expel the aforementioned 46 employees under the provisions of said Article II of its collective bargaining agreement with respondent union reading:

"That the UNION shall have the exclusive right, and privilege to supply the company with such laborers, employees and workers as are necessary in the logging, mechanical, sawmill, office, logponds, motor pools, security guards and all departments in its many phases of operations, excepting such positions which are highly technical and confidential in character and/or such positions which carry the exercise of authority in the interest of the COMPANY which exercise is not merely clerical or routinary within the contemplation of the law, and that the company agrees to employ or hire in any of its departments only such person or persons who are members of the UNION."

Respondents maintain that since respondent union is thus given "the exclusive right and privilege to supply the company with such laborers, employees and workers as are necessary" for the activities specified in said Article II and the company had agreed "to employ or hire in any of its departments only such persons who are members of the union", it follows that such laborers, employees and workers of the company as may, cease to be members of the respondent union must be expelled from the company. Upon mature deliberation, the Court is of the opinion that respondents' pretense cannot be sustained.

At the outset, respondents labor evidently under the impression that said Article II of their contract establishes a "closed shop" agreement, which is erroneous for, as held by this Court.

" 'Closed-Shop agreement is an agreement whereby an employer binds himself to hire only members of the contracting union who must continue to remain members in good standing to keep their job.' " (National Labor Union vs. Aguinaldo's Echague, Inc., 51 Off. Gaz. No. 6, p. 2899, cited in Bacolod-Murcia Milling Co., Inc. and Alfredo T. Garcia vs. National Employees-Workers Security Union, 53 Off. Gat., 615; Italics ours.)

Rothenberg, in his work on Labor Relations, has the following to say about "closed shop":

"A 'closed shop' may be denned as an enterprise in which, by agreement between the employer and his employees or their representatives, no person may be employed in any or certain agreed departments of the enterprise unless he or she is, becomes, and, for the duration of the agreement, remains a member in good standing of a union entirely comprised of or of which the employees in interest are a part." (Rothenberg on Labor Relations, p. 48; Italics ours.)

Inasmuch as Article II above quoted does not provide that employees "must continue to remain members in good standing" of respondent union "to keep their jobs," the collective bargain-agreement between them does not establish a 'closed shop,' except in a very limited sense, namely, that the laborers, employees and workers engaged by the company after the signing of the agreement on January 23, 1955, must be members of respondent union. The agreement does not affect the right of the company to retain those already working therefor on or

before said date, or those hired or employed subsequently thereto, while they were members of respondent union, but who, thereafter, resign or are expelled therefrom.

In order that an employer may be deemed bound, under a collective bargaining agreement, to dismiss employees for non-union membership, the stipulation to this effect must be so clear and unequivocal as to leave no room for doubt thereon. An undertaking of this nature is so harsh that it must be strictly construed, and doubts must be resolved against the existence of "closed shop". Referring particularly to the above-quoted Article II, we note that the same establishes the exclusive right of respondent union to "supply" laborers etc., and limits the authority of the company to "employ or hire" them. In other words, it requires that the laborers, employees and workers hired or employed by the company be members of respondent union at the time of the commencement of the employer-employee relation. Membership in respondent union is not a condition for the continuation of said relation or for the retention of a laborer or employee engaged either before said agreement or while he was a member of said union.

Indeed, Article III—a of the agreement provides:

"That the COMPANY may dismiss or otherwise remove from employments any employee or laborer for gross inefficiency, misconduct, gross disrespect to the manager, misbehavior, or culpable negligence in the office, commission of any crime or misdemeanor while in the course of his employment or work or office, only upon report of the same in writing duly signed by the supervisor or company official directly responsible over such employee or laborer to the Manager of the company which report shall contain in concise form the facts and circumstances upon which such removal or dismissal is based, furnishing therewith in the form of notice the President of the UNION within 3 days before such dismissal or removal is effected, the latter upon receipt thereof shall give his consent or dissent thereto in writing, which in case of dissent shall be considered a formal request for reconsideration of the cause of each individual case or removal or dismissal by the COMPANY."

If the parties to the agreement intended to establish a "closed shop", in the strict sense of the phrase, they would have inserted in said Article III-a, among the grounds for dismissal by the company therein specified the discontinuance of membership in respondent union. Their failure to make such insertion strongly indicates that said discontinuance of membership was riot understood to be a ground for dismissal.

Further confirmation of this view is the fact that on August 24, 1965, or after the dismissal of all of the employees above mentioned—except one who was dismissed on August 30, 1955—Article II of the agreement was amended to read as follows:

"That the UNION shall have the exclusive right and privilege to supply the COMPANY with such skilled and/or unskilled laborers, employees and workers as are necessary in the logging, mechanical, sawmill, office, log ponds, motor pool, security guards and all departments in its many phases of operation whether on an apprenticeship or temporary status, excepting such positions which are highly technical and confidential in character and/or such positions which carry the exercise of authority in the interest of the COMPANY which exercise is not merely clerical or routinary within the contemplation of the law, and that the COMPANY agrees to comply or hire in any of its department only such person or persons who are members of the union and to retain in its employ only such employees or laborers who remain members of good standing of the Union; subject to the following limitations or conditions, to wit:

- An apprentice shall, after serving 78 working days, be automatically classified as temporary employee or laborer.
- A temporary employee becomes automatically permanent and regular after working 152 working days."

The addition, to the last part of the original Article II, of the clause "and to retain in its employ only such employees or laborers who remain members of good standing of the union," indicates that the company was not

prohibited prior thereto from retaining in its employ such laborer's as do not remain members of good standing of respondent union.

In short, the dismissal of 45 out of the 46 laborers in question, prior to said amendment of Article II, was illegal and, hence, said 45 laborers should, be reinstated. Considering, however, that the agreement was entitled "Closed Shop" and that there is no local decision squarely in point, the Court is inclined to give the company the benefit of doubt as regards its claim that it acted under the honest belief that it was bound to dismiss them pursuant to said agreement.

Wherefore, the resolution appealed from is hereby reversed, insofar only as the aforementioned 45 laborers, and employees are concerned, and another one shall be entered directing the reinstatement of said 45 laborers and employees, with costs against the respondents. It is so ordered

Paras, C. J., Bengzon, Montemayor, Bautista Angelo, Labrador, Reyes, J. B. L., Endencia and Gutierrez David, JJ., concur.

Barrera, J., reserves his vote.

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