

**NATIONAL MINES AND ALLIED WORKER’S UNION,
PETITIONER, VS. HON. MELQUIADES G. ILAO, JUDGE OF THE COURT
OF FIRST INSTANCE OF CAMARINES NORTE, PARACALE-GUMAUS
CONSOLIDATED MINING C...**

G. R. No. L-16884. January 31, 1963

Ponente: DIZON, J.

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DIZON, J.:

In the year 1956, the Camarines Norte Confederation of Miners and Labor Association, a legitimate labor union, (hereinafter referred to as the Confederation) was duly certified as the sole and exclusive bargaining representative of all the employees of the Paracale Gumaus Consolidated Mining Company, Inc., a duly organized domestic corporation, with main offices at Gumaus, Paracale, Camarines Norte (hereinafter referred to as the Company).

On December 19, 1959, the Company entered into a closed-shop bargaining agreement with the Confederation—to be effective from January 1, 1960 to January 1, 1962—undertaking, among other things, to employ only members of the latter in good standing and to dismiss any employee who has been expelled or certified as having lost good standing therein.

On February 16, 1960, the National Mines and Allied Worker's Union, another labor organization with principal offices at Larap, J. Panganiban, Camarines Norte, filed with the Court of Industrial Relations, Bicol Branch, a petition for certification election (Case No. IV-MC Bicol) praying that it be certified as the sole agent of the workers and employees of the Company for purposes of collective bargaining, alleging that it represented the majority of said employees, and that the Confederation no longer enjoyed the confidence and did not represent said majority.

On March 28, 1960, the Company received a letter from the Confederation requesting that an employee by the name of Jorge Patinio be dismissed, he no longer being a member of the Confederation. In accordance with their collective bargaining agreement Patinio was dismissed two days later.

On April 5, 1960, the National Mines and Allied Workers' Union filed with the Court of Industrial Relations, Bicol Branch, a complaint charging the Company, its general superintendent, G. M. Budiselic, the Confederation and its president, Fermin Lapuz, with unfair labor practice (Case No. 22 ULF Bicol). The complaint alleged that the Company had been committing discriminatory acts against members of the plaintiff Union who were employed therein, citing particularly the dismissal of Jorge Patinio, without any valid ground or cause.

On April 8, 1960, pending determination of the certification election and the charge of unfair labor practice mentioned heretofore, the Company filed with the Court of First Instance of Camarines Norte an action for injunction, with a petition for preliminary injunction to restrain the National Mines and Allied Workers' Union from picketing its premises and molesting it with respect to the contract of closed-shop agreement with the

Confederation and its members. (Civil Case No. 1207) The following day, the Court issued a writ of preliminary injunction ex-parte, enjoining the National Mines and Allied Workers' Union "from molesting plaintiff in its peaceful labor relations with the Camarines Norte Confederation of Miners and Labor Association and its members, and from picketing, threatening and harassing plaintiff corporation and its employees in the peaceful routine of their work." The present petition for certiorari, with preliminary injunction, was subsequently filed by the National Mines and Allied Workers' Union against the Company, its general superintendent and the Hon. Melquiades G. Ilao, Judge of the Court of First Instance of Camarines Norte, to annul the latter's order granting a writ of preliminary injunction and to prohibit him from taking cognizance of Civil Case No. 1207 on the ground of lack of jurisdiction.

Upon the facts stated above, it seems clear that the respondent judge erred in issuing ex-parte the writ of preliminary injunction complained of. There being at the time two pending proceedings in the Court of Industrial Relations, namely, one for certification election and the other for unfair labor practice, the Court of First Instance of Camarines Sur had no jurisdiction to issue an anti-picketing injunction—whether final or preliminary—in relation to the matters involved in the two proceedings aforementioned. That was already within the exclusive jurisdiction of the Court of Industrial Relations (United Pepsicola Sales Organization etc., to Cañizares, G.R. No. L-12294, Jan. 23, 1958).

But even if said Court of First Instance had jurisdiction to entertain the principal action and the petition for preliminary injunction, it could not issue the latter writ by merely following the provisions of Rule 60, Section 6 of the Rules of Court, but should have done so in accordance with those of Section 9 (d) of Republic Act 875 which require the court to set the petition for hearing and receive evidence—which was not done in the present case.

Lastly, it should be noted that the temporary restraining order complained of could be effective, in accordance with the legal provision last mentioned, only for five days, the same becoming¹ void and of no effect after the fifth day, by operation of law (United Pepsicola, supra).

Wherefore, we hold that the respondent judge (court) has no jurisdiction over the subject matter of Civil Case No. 1207. As a result, the writ of preliminary injunction issued ex-parte in said case is declared void. Cost against the respondents except the respondent judge.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador , Concepcion , Reyes, J.B.L., Barrera, Paredes, Regala and Makalintal, JJ., concur.

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