

FLORO BUENCONSEJO, PETITIONER, VS. THE COURT OF INDUSTRIAL RELATIONS, UNION OBRERA DE TABACO AND TITO BILANGEL, RESPONDENTS.

G.R. No. L-22508. November 25, 1968

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

In a petition filed before this Court on February 26, 1964 petitioner alleged that prior to the biennial election of officers of the Union Obrera de Tabaco on the first Sunday of March - which in 1964 fell on March 1 - he filed his certificate of candidacy for president thereof in accordance with the union's constitution and by-laws; that on February 14, 1964 the union returned to petitioner his certificate of candidacy, advising him that he could not participate in the forthcoming election for certain unstated reasons allegedly already known to petitioner; that because of circulating rumors that respondent Tito Bilangel would control the election since he was the sole candidate for the top post, petitioner filed a charge of unfair labor practice against the union and Bilangel before the Court of Industrial Relations on February 10, 1964. In paragraphs 8, 9, 10 and 11 of the petition it is pointed out:

"8. That after preliminary investigation of said charge, the Acting Prosecutor of the case, Atty. Linda Ilagan, filed a complaint for unfair labor practice, x x x

9. That because the election is only a few days off, and considering the time required to hear the main case of unfair labor practice the petitioner filed, incident to the said unfair labor practice case, an Urgent Petition for Preliminary Injunction, asking the respondent Court for preliminary remedy to command and/or enjoin the respondent union to include the petitioner Floro Buenconsejo as a candidate for the presidency of the union in the election to be held on March 1, 1964, x x x

10. That because of the urgency of the situation, on February 20, 1964 and again a few days later the petitioner filed urgent motions for the immediate resolution of the incidental case in-volving his inclusion as a candidate for March 1, 1964 election, x x x

11. That in spite of these urgent matters, and in spite of the fact that there are less than five (5) days remaining before the union election involving 1,500 employees, the respondent Court of Industrial Relations has not acted on said petition."

Contending that the continuous inaction of respondent court in resolving his plea thereto for an injunction would operate to exclude him from being a candidate in the March 1, 1964 election, petitioner brought this original action for mandamus with preliminary injunction primarily seeking his inclusion as a candidate in said election. Because of the urgency of the claim presented by petitioner, this Court issued a resolution on February 28, 1964 to this effect: "The respondents in L-22508 (Floro Buenconsejo vs. The Court of Industrial Relations, et al.) are required to file, in 10 days from notice hereof an answer to the petition for mandamus (not a motion to dismiss). Without bond, let preliminary mandatory injunction issue ordering the Court of Industrial Relations to act on the

complaint (case 4052-ULP) filed on February 25, 1964, in view of the scheduled certification election on March 1, 1964."

In their answer filed on March 24, 1964, respondents Tito Bilangel and the Union Obrera de Tabaco sought the dismissal of this petition pleading, among others, that the question of participation of petitioner in the union election of March 1, 1964 had become moot and academic because said election was regularly held as scheduled even without petitioner's participation in view of his inability to obtain from the Court of Industrial Relations a writ of preliminary mandatory injunction with respect to his inclusion as a candidate. Said failure on petitioner's part, as alleged by respondents and not denied by petitioner, was due to the latter's inability to post the required bond.

IN VIEW IF THE FOREGOING, this petition is dismissed as moot and academic, for lack of justiciable controversy. No pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Zaldivar, Sanchez, Castro, Fernando, and Capistrano, JJ., concur.

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