

ALLIED WORKERS ASSOCIATION OF THE PHILIPPINES (AWA) SAN CARLOS CHAPTER, PETITIONER, VS. PHILIPPINE LAND-SEA-AIR LABOR UNION (PLASLU), SINFOROSO KYAM-KO AND COURT OF INDUSTRIAL R...

G.R. Nos. L-15447-48. January 31, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Appeal by certiorari from a decision of the Court of Industrial Relations in Case No. 86-ULP-Cebu and Case No. 3-ULP-Iloilo, the dispositive part of which reads:

"PREMISES CONSIDERED, the respondent company is hereby ordered to reinstate immediately all striking workers listed in Annex 'A' of the complaint to their former position under the same terms and conditions existing before the strike upon application, and to pay their back wages from April 27, 1956 when they offered to return to work and were refused up to their actual reinstatement, except Vivencio Anobling, Eleno Dypongko and Ariston Nemenzo, who had been retired and had received retirement benefits from respondent Company before the strike on April 12, 1956 (t.s.n. p. 393, Hearing on May 30, 1957), Felix Arriba, who also did not join the strike but continued working until the end of the milling season on June 10, 1956 (t.s.n. pp. 391-393, Hearing on May 30, 1957), Felix Arriba, who also did not join the strike but continued to work until at present (t.s.n. p. 392, Hearing on May 30, 1957), and Uldarico Fernandez, who was dismissed for cause on February 27, 1956, and to dismencement of the strike on April 12, 1956, if it is necessary to provide employment to the striking workings to be reinstated."

On June 29, 1956, a complaint - docketed as Case No. 86-ULP-Cebu - was filed with the Court of Industrial Relations, at the instance of the Philippine Land-Air-Sea Labor Union (PASLU) and/or Sinforoso Kyamko, against the San Carlos Milling Company, Ltd. and/or A.O. Mustard and Gatalino Pomar, as Manager and Chief Engineer, respectively, of said Company and the Allied Workers' Association of the Philippines (AWA), San Carlos Chapter, and/or its president, charging them with having "interfered with, restrained and coerced" the company employees "in the exercise of their x x x right if self-organization x x x as well as discriminating upon the complainant Sinforoso Kyamko by discharging him from his employment" upon the request of said association, and "with the end in view if discouraging their employees or affiliates from continuing with their affiliation and activities" with the PLASLU.

The Company and its aforesaid officers denied the charge and alleged that Kyamko's dismissal was a consequence of his expulsion from the AWA, a legitimate labor organization with whom the Company claimed to have a standing Collective Bargaining and Union Shop Agreement. Similarly, the AWA and its president denied the charge and alleged that, on account of said agreement, complainants had no cause of action.

While the case was pending, or no April 12, 1957, another complaint - docketed as Case No. 3-ULP-Iloilo - was filed with the same court, at the instance of the PLASLU, Kyamko and 150 other persons, against the Company and some of its officers, charging them with unfair labor practices allegedly committed as follows:

"(a) On or about November 29, 1955, the then manager of the respondent company, A.P. Mustard, by word of mouth, warned its employees not to join the complainant union (PLASLU) and that those who were already members should resign or withdraw therefrom and join the Allied Workers Association (AWA), another union existing in the said company;

"(b) On or about February 15, 1956, Sinforoso Kyamko, an active member of the PLASLU, was investigated by Catalino Pomar and Carlos Madrazo, chief engineer and chief chemist, respectively, regarding their union affiliation and activities and the subject laborer was warned to desist from campaigning for the PLASLU on pain of being dismissed and in fact, shortly thereafter or more specifically on February 18, 1956, was arbitrarily, unjustifiably dismissed by the Company by reason of his union activities and affiliation with the PLASLU;

"(c) On or about March 5, 1956, Uldarico Frenandez, an active member of the PLASLU, was investigated by Antonio Binghay, a foreman of the Company, regarding his union membership and activities and was told that he could not work with the Company since he was a member of the PLASLU and in fact, shortly thereafter, or more specifically on March 10, 1956, said laborer was arbitrarily, unjustifiably dismissed by the Company by reason of his union activities and affiliation with the PLASLU."

It was further alleged in the second complaint that "on or about April 12, 1956, by reason of the series of unfair labor acts committed by the x x x Company, the members of the PLASLU" therein declared a strike and put up a picket line in the premises of the Central" and that, on April 28, 1956, the strikers offered to return to work, but the Company ignored and rejected the offer.

The Company and its aforementioned officers denied the charge made in the second complaint, as well as the alleged offer of the strikers to return to work, and averred that, owing to its allegedly existing collective bargaining and union shop agreement with the AWA, said strike was illegal.

After hearing both cases jointly, the decision above referred to was rendered by Presiding Judge Jose S. Bautista, which decision was, on motion for reconsideration, affirmed by the Court of Industrial Relations en banc. Hence this appeal by the AWA.

The main facts are: On December 12, 1952, petitioner AWA - a legitimate labor organization composed of laborer and employees of the Company - and the latter concluded a collective bargaining and union shop agreement for a period of three (3) years from said date, "automatically renewable thereafter unless the parties thereto agree and decide otherwise". Prior to the expiration of said period, or on July 14, 1955, said parties entered into another agreement the pertinent part of which provides:

"The parties further record their complete understanding and agreement to effect a renewal for another three years of the Collective Bargaining and Union Shop Agreement entered into between them on December 12, 1952, upon its expiration on December 11, 1955."

Sinforoso Kyamko used to be an AWA member. Having subsequently joined the PLASLU and campaigned actively therefor, he was on December 26, 1955, expelled from the AWA. The next day, its president, Juan D. Caballero, informed the Company of said expulsion, with the request that kyamko be dismissed from his employment. Before any action could be taken on this request by the Company, or on January 4, 1956, about 158 members of the AWA, dated February 16, 1956, twenty-five (25) of said resigning members were expelled from the Association, which furnished the Company with copy of said resolution, with the request that the twenty-five (25) members thus expelled be dismissed from their employment.

Relying on its aforementioned collective bargaining and union shop agreement, on February 18, 1956, the Company dismissed Kyamko. Before the request of the AWA with respect to its aforementioned twenty-five (25)

expelled members could be acted upon, about 150 of the company workers who had resigned from the AWA, including said twenty-five (25) expelled, members, struck on April 12, 1956, in protest against Kyamko's dismissal and the threatened dismissal of said twenty-five (25) members. The strikers, likewise demanded and accounting from the AWA.

The main issue in these cases is whether the aforementioned collective bargaining and union shop agreement dated December 12, 1952 was in force at the time of Kyamko's dismissal by the Company on February 18, 1956. The petitioner maintains that it was, in view of the automatic renewal clause in said agreement and the contract entered into on July 14, 1955, in which the AWA and the Company had agreed "to effect a renewal for another three years" of the contract of December 12, 1952, "Upon its expiration on December 11, 1955". However, the lower court held otherwise upon the ground that the agreement of July 14, 1955.

"is an a agreement merely to perform a specific act on a specific future date, that is, for the parties to execute another contract renewing the agreement on the date of its expiration. The agreement dated July 14, 1955 did not actually renew the collective bargaining and union shop agreement dated December 12, 1952 as there was still a need for the parties to do so at its expiration date and parties failed to renew it. To effect a renewal is absolutely different and distinct from a renewal. It may be noted that the collective bargaining and union shop agreement dated December 12, 1952 was executed or entered into by the Allied Worker Association of the Philippines, represented by Maximo Pelarte, General President and AWA (San Carlos Chapter) represented by Constancio Manese, on one hand and the San Carlos Milling Co. Ltd., represented by F.A. Johnson for and in behalf of Richard M. Smith, Manager, on the other hand, while that of the agreement dated July 14, 1955 was executed and/or entered into by the AWA (San Carlos Chapter) and the Allied (Workers) Association of the Philippines both represented alone by Emilio Severino, Chairman, AWA National Council on one hand, and Theo H. Davies & Co., Far East, Ltd. for San Carlos Milling Co., Ltd., represented by Gerald Wilkinson, President, on the other hand. The agreement dated July 14, 1955 reveals that it provides not only the alleged complete understanding and agreement to effect a renewal but also other terms and conditions of employment of the workers and respondent company and as it affects the workers in their relations to their employer the agreement should have been presented by any of their local officers and not by the chairman of the National Council of the Federation alone.

"Moreover, in the list of major achievements of the AWA, San Carlos Chapter, for the period 1947-1955 the alleged agreement is not listed as an achievement of the association. Considering that said list was prepared on September 8, 1955, twenty-five (25) days after the alleged renewal agreement was executed on July 14, 1955.

"When respondent AWA expelled Kyamko for violation of the by-laws and constitution no unfair labor practice of restraining or coorcing in the exercise of his right to self-organization was committed.

"Premises considered, the Court holds that the collective bargaining and union shop agreement dated December 12, 1952 was not renewed upon its expiration on December 11, 1955. Consequently, the dismissal of Sinforoso Kyamko on February 18, 1956 was unjustified and for no other cause except for his union membership and activities."

Referring to the legality of the strike called on April 12, 1956, the Court of Industrial Relations said:

"As borner out by the evidence, the strike on April 12, 1956 was provoked first, by the dismissal of Sinforoso Kyamko and Uldarico Fernandez; second, by the demand from respondent AWA, for accounting of the financial conditions of the said union; and third, by the threatend dismissal of the twenty-five workers affiliated to the PLASLU. There is no doubt that the dismissal of Sinforoso Kyamko was discriminatory and unjustified and, therefore, constitutes unfair labor practice, although the dismissal of Uldarico Fernandez was for justified cause. The demand for accounting from respondent AWA should not be directed to the respondent company. If any party is bound to make such accounting, it is the respondent union, and compainants have no right to strike against the company for that reason. There was no evidence to show that there was really a move

on the part of the respondent AWA to demand the dismissal of the twenty-five workers listed in Exhibit 'D'. In fact the Board of Directors of the respondent AWA approved a resolution expelling the twenty five workers listed in said Exhibit from the association for disloyalty and which was forwarded to the respondent company. Moreover, complainants admit that the twenty-five workers were not actually dismissed but ceased working when they joined the strike on April 12, 1956. As to the allegation that the strikers resolved to sabotage company properties, there was no proof which showed that the strikers caused the removal of the vital parts of their locomotives. On the contrary, Catalino Ponar, Chief Engineer of the respondent company admitted that he could not exactly tell who caused the removal of those parts, so that its break-down could be attributed to the strikers and therefore the means employed by the strikers and therefore the means employed by the strike was absolutely peaceful and legal. There is no question that a strike was an unfair labor practice act since it was caused fundamentally by respondent's unfair labor practice committed against the PLASLU affiliates. In fact one of the principal issues alleged in the said notice of strike is the reinstatement of union members to their former position while respondents alleged that it was an economic strike. The fact must also be considered that it was an unfair labor practice strike which was caused by the discriminatory dismissal of the members of the PLASLU and, therefore, the striking workers are entitled to reinstatement upon application, it appearing that their jobs still remain. Even if respondent company had hired replacements, as, in fact, it did, this should not prejudice the right of the strikers for reinstatement and they are entitled to back wages from the date of application for reinstatement. Although the respondent company denied that the striking workers offered to return to work, the Court is fully convinced by the preponderance of evidence that the offer was actually conveyed to the manager of the respondent company when their intention to report was relayed to the company by the Court officer."

It appears, also, that prior to the institution of these two cases, or on December 2, 1955, there had been filed with the Court of Industrial Relations Case No. 38-MC-Cebu, entitled "Philippine Land -Air-Sea Labor Union vs. San Carlos Milling Co." for certification election; that in an order dated March 12, 1958, the Court of Industrial Relations held that the AWA was the sole agent of the employees of the Company for collective bargaining purposes; that the order was affirmed by the Court of Industrial Relations en banc, in a resolution dated October 15, 1958; that on appeal to the Supreme Court - in which the case was docketed as G.R. No. L-14656, entitled "Philippine Land-Air-Sea Labor Union (PLASLU) vs. Court of Industrial Relation, San Carlos Milling Co., Inc., and Allied Workers' Association of the Philippines (AWA)" - we reversed the decision of the Court of Industrial Relations on November 29, 1960 and declared that employees of the Company; and that our decision in the case last mentioned is already final and executory.

Moreover, in G.R. Nos. L-15453 and L-15723, entitled "San Carlos Milling Co., Inc. and the Allied Worker' Association of the Philippines (San Carlos Chapter) vs. Court of Industrial Relations, Philippines Land-Air-Sea Labor Union (PLASLU), Sinforoso Kyamko and 150 others", between the same parties in the case at bar and involving the same issues, we held, in a decision rendered on March 17, 1961, that, although the contract of December 12, 1952, had been renewed, the provisions thereof authorizing dismissal of employees who, having joined the AWA, later ceased to be members thereof, referred only to new employees and was inapplicable to old employees, such as Sinforoso Kyamko, who had been an employee of the Company since 1948; that as a consequence, This dismissal - was, in legal effect, an unfair labor practice act prompted by his membership and activities in the PLASLU"; that, accordingly, "the strike of April 12, 1956 was legally justified"; that "regardless of Kyamko's dismissal", said "strike itself was merely a legitimate exercise of what has now evolved as an institutionalized factor of democratic growth"; that "when the strikers' offered to return to work on April 2, 1956, the employer had no right to have the former's participation in the strike counted against them"; that "when the Company refused to admit the strikers back for no valid reason shown, it was virtually applying a standard prohibited by law"; that "the union shop agreement itself could not have barred the strikers' readmission"; that "the strike was justified; the employer acted wrongfully in dismissing Kyamko and in refusing reinstatement of

the strikers"; that "still x x x the employers acted in good faith in the belief that Kyamko's dismissal was legally justified pursuant to the union shop agreement"; that "considering the difficulty of the questions involved, the Company should be given the benefit of its good faith, at least, with regards to back wages which should be equitably reduced"; and that, hence, "the back wages counted from April 27, 1956 up to the actual reinstatement" of Kymako and the strikers was thereby "reduced to one-half", and, with this modification, the decision of the Court of Industrial Relations in Cases Nos. 86-ULP-Cebu and 3-ULP-Iloilo, was affirmed, in all other respects, without costs.

Inasmuch as the aforementioned decision in Cases G.R. Nos. L-15453 and L-15723, which are already final and executory, have definitely settled the issues before us, the decision appealed from, as thus modified, is hereby affirmed, without costs.

IT IS SO ORDERED.

Bengzon, C. J., Bautista Angelo, Labrador, Reyes, Barrera, Paredes, Dizon and De Leon, JJ., concur.
Padilla, J., no part.

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