

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.  
PEDRO BARBA, REYNALDO JASMINEZ, LEONARDO CORDERO,  
RODOLFO JASMINEZ, RUSTICO SALANDANAN, VICTORIO ALMANZA,  
ROGELIO HERNAND...**

*G.R. Nos. L-27615-16. September 30, 1969*

Ponente: FERNANDO, J.

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**FERNANDO, J.:**

It is settled law that peaceful picketing is included in free speech.[1] There is equally a recognition that it is more than just the expression of views or of facts connected with a labor dispute, intended to arouse sympathy for the cause of the working-men. The intent to persuade is there, of course, but it has a coercive aspect as well and is thus not immune to that extent from restrictions and limitations. As a matter of fact, certain activities associated with it may at times make a mockery of peaceful pre-tension and thus lie outside the bounds of the permissible in law.[2]

The precise question in these two cases to be decided jointly is whether conduct arising from what undoubtedly was excess of zeal in carrying on picketing, resulting in complainants being un-able to leave the premises of employment, may, under the circum-stances to be hereinafter more particularly disclosed, constitute probable cause for the crime of illegal detention. The lower court answered in the negative. The matter was elevated to us on appeal. We find no reason for reaching a different con-clusion.

The order of the lower court complained of, presided by then Judge A. Melencio Herrera of the Court of First Instance of Quezon, Ninth Judicial District, dated March 10, 1967, dis-missed the two informations filed against more than one hundred persons engaged in picketing and thereafter accused of illegal detention, as there was no probable cause shown. The care and circumspection with which the question was inquired into by the lower court is shown by the fact that two previous orders regarding these cases had previously been issued before such dismissal.

The first of such orders, dated Oct. 20, 1966, makes mention of the antecedent facts leading to the accusation for illegal deten-tion. A strike was called by the employees of the Red V Coconut Products, Ltd. in Lucena sometime on December 14, 1965, a picket line around or about the premises having been formed. Sub-sequently, two complaints were filed with the City Fiscal of Lucena against all the accused, one by a certain Jose Pavon, Sr. and another by Pilar Echevarria charging them with illegal detention, the allegation being that from 12:00 noon, December 18, to 10:50 p. m., December 19, 1965, complainants were confined within and could not leave the company compound because the picketing employees blocked the exit from the premises as well as the other means of egress therefrom. The City Fiscal of Lucena conducted a preliminary investigation as a result of which the informations for illegal detention were filed. No warrants of arrest were, how-ever, issued, as the City Court of Lucena returned the cases to the Fiscal's Office for further investigation. Instead of doing so, the City Fiscal chose to have the matter passed upon by the lower court.

The aforesaid order of October 20, 1966 explained why it could not issue the warrants of arrest sought. Thus: "As the Court, before issuing the warrants of arrest, would like to assure itself of the existence of probable cause in connection with the crimes actually charged in the two informations, and consonant with the doctrine enunciated in *Amarga v. Abbas*, 98 Phil. 739, let these cases be set for hearing on November 8, 1966 at 2:00 o'clock p. m. on which date and hour the Prosecution shall have the two complain-ing witnesses available for examination by the Court. The hearing will not form part of the trial and will be held notwithstanding absence of the accused." [3]

Then came the order of December 1, 1966 resetting for further hearing on December 13, 1966 the two cases so that additional evidence could be presented by the prosecution. It would appear, therefore, that after the second hearing the lower court was still not persuaded that the warrants of arrest should issue, this notwithstanding the specific finding of fact set forth in such order of December 1, 1966. Thus: "On December 18th, which was a Satur-day, some non-striking employees of the Company, the complainants among them, entered the compound at about 7:30 in the morning, together with several out-of-town workers who were engaged in erection work within the compound. At about 10:00 o'clock in the morning of that Saturday, the strikers formed a picket line. Most of them concentrated at the front gates while others went around the compound perimeter." [4]

What subsequently happened is narrated in the succeeding para-graph of such order: "At 12:00 o'clock, noon, of the same day, complainants, together with other Company employees, made a first attempt to leave the Company compound through the main gates. They could not do so because several strikers (picketers) formed a line breast to back, four deep, before the main gates such that it would have been necessary, for the employees to go through, physi-cally to push the picketers aside. A second attempt to leave was made at 5:00 o'clock p. m. on the same day, which was also un-successful, as was the third attempt at 8:00 o'clock that night. A fourth attempt was made at 7:00 o'clock the following morning, Sunday; a fifth attempt was made at 5:00 o'clock in the afternoon, all with the same negative result and for the same reason. Shortly before 10:50 p. m. of that Sunday night, the picket was lifted and complainants were able to leave the Company compound. During that Saturday and Sunday, complainants, when not at their places of work, spent the time at the Superintendent's house." [5]

The lower court remained unconvinced that a crime of illegal detention was committed, there being in its opinion, quoting from *Viada*, no "acto de detencion o encerramiento, privativo de libertad", it being its opinion that the objective of the controversial act "was not to deprive complainants of their personal liberty but to impair the operations of the Company." [6] The lower court added: "Moreover, it strikes the Court that it would have been quite easy for complainants to have broken parts of the chicken wire fence, as it had then been broken, and for them to have left the Company compound through the break. As it was, complainant Pavon had stated 'I came in through the gate, so I am going out through the gate also' \* \* \*." [7]

Then came the order of March 10, 1967, subject of this appeal. After setting forth that the prosecution was allowed to introduce further evidence so that it could finally determine whether warrants of arrest should issue or the cases should be dismissed, the order stated: "At the hearings held on February 16 and March 2, 1967, Capt. Salvador Red, Sergeants Mamerto de Vera, Eligio Tabios and Antonio Escartin, of the Philippine Constabulary, gave their version of what had happened at the, picketing of the Red V Coconut Products, Inc. Their testimony cannot be deemed as having established pro-bable cause for a charge of Illegal Detention against the picketers." [8]

The closing paragraph again referred to the alleged crime of illegal detention not having been committed: "The basic fact relevant to these cases which had been confirmed by the testimony of the aforementioned four witnesses is that a picket line had been established across the main gate of the company, the closeness and movement whereof prevented ingress and egress from the company compound. The establishment of that picket line in the opinion of the Court is not probable cause for charging the picketers with Illegal Detention." [9]

In this appeal, a brief on behalf of plaintiff-appellant, People of the Philippines, was filed by private prosecutors, Romeo A. Real and Victorino B. Javier. While such brief did assail with vigor and with some plausibility the validity of the order of dismissal of the lower court, it is not sufficiently persuasive. As noted at the outset, the appeal must fail.

It is undeniable from the facts as found by the court below which must be accepted, only a legal question being before us, that the strike in question was characterized by more than its share of the bitterness usually associated with labor disputes. The animosity that existed between the employees on the one hand and management on the other was most marked. Picketing was resorted to with a minimum emphasis on its persuasive aspect. It was intended primarily as an instrument of coercion to assure that sufficient pressure be exerted so that labor's demands be met.

The picketers, the accused in this case, were adamant and inflexible; such unyielding attitude was quite evident in the manner the picketing was carried on. Those outside the employer's premises were not allowed to get in. Those within they would keep inside. They formed a solid phalanx precluding without the use of force anyone from passing through the ranks. Apparently, with respect to the two complainants, they did succeed in their design. They were kept inside from the noon of December 18 to about 11:00 in the evening of the next day.

The precise question before us, one of first impression, is whether on the above decisive facts warrants of arrest ought to have issued, there being a probable cause that the offense of slight illegal detention was thus committed. Kidnapping, detention or any other manner of deprivation of liberty is penalized as slight illegal detention if committed without the attendance of the circumstances that would constitute the grave offense, penalized as kidnapping and serious illegal detention.[10] Our answer to the above question is in the negative. The lower court must be sustained.

Clearly, there was no kidnapping; the detention or deprivation of liberty under the circumstances, while certainly not to be justified, was not done with criminal intent. It was the outcome of picketing carried to excess, one might say, by people who, perhaps in a less tense atmosphere and in the absence of the bitterness that did characterize this particular labor dispute, should have known better but apparently did not. Their objective, as clearly observed by the lower court, was not to inflict loss of freedom to the complainants but to weaken management resistance so that it would give in to their demands. While no doubt to be deplored, such conduct cannot be made a basis for a finding of probable cause that the crime penalized by the codal provision in question was committed.

Instances may occur where a criminal action may lie. We do not intimate any opinion as to what offense may be then committed or under what circumstances a finding of probable cause is justified. We do not have to do so as that is not the question before us. What we do affirm is that the judiciary should be on the alert lest in scrutinizing conduct that may lie outside the traditional concept of peaceful picketing, those so engaged may subject themselves to a serious criminal liability. More precisely, while the acts here complained of are immoderate, they certainly do not add up to the commission of the offense of slight illegal detention. To such a judicial approach, the lower court manifested fidelity. We cannot reverse it then.

It is not to be forgotten either that the offense of slight illegal detention is penalized by reclusion temporal. To say that the accused, numbering more than one hundred who took part in such picketing, laid themselves open to such a serious charge, there being a probable cause, and thus, if convicted, be made to suffer a severe penalty, would be to pose an ever-present threat to labor. Obviously, the result is far from desirable. The Revised Penal Code in effect becomes a veritable sword of Damocles. Militancy and zeal in the defense of labor's rights could be stigmatized as the perpetration of a criminal act. As a result, the probability that punishment, not excluding the

afflictive kind, may be incurred is no longer remote. To that extent, the constitutional policy of social justice and protection to labor would be nullified and set at naught.

It is worthy of note that Solicitor General Felix B. Makasiar, on behalf of plaintiff-appellant, People of the Philippines, did file on June 25, 1969, a motion to dismiss the appeal alleging that after "a close analysis and careful study of the facts of the case, the applicable law and the errors imputed to the lower court by the private prosecutors, " he arrived at the "inescapable conclusion that the lower court did not err in dismissing these cases.[11] He would pray, therefore, that the appeal be dismissed in these two cases. Since the case was submitted as far back as May 8, 1969, we did not feel called upon to act favorably on this motion of the Solicitor General although it cannot be denied that as by him asserted, his office has control over prosecution of offenses before appellate tribunals.

His appraisal of the situation though from the facts as found by the lower court thus leading him to seek the dismissal of these cases fortifies the conclusion reached by us. Thus: "It is readily apparent that the facts do not constitute the crime of illegal detention charged in the information.[12]

In the light of the foregoing, we hold that the order of the lower court dismissing these two cases, there being no probable cause shown for the crime of slight illegal detention having been committed, arising solely from the inability of the two complainants to leave the employer's premises in view of the manner the picketing was carried on, does not suffer from any infirmity.

WHEREFORE, the order of March 10, 1967 by the lower court dismissing these two cases is hereby affirmed. Without pronouncement as to costs.

Concepcion, C.J., Dizon, Zaldivar, Sanchez, Ruiz Castro, Capistrano, and Teehankee, JJ., concur.

Makalintal, J., in the result.

Barredo, J., did not take part.

Reyes, JBL, J., on official trip.

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[1] *Mortera v. Court of Industrial Relations*, 79 Phil. 345 (1947).

[2] *Cf. Security Bank Employees Union-NATU v. Security Bank & Trust Company*, 23 SCRA 503 (1968).

[3] Order, Annex A, Brief for Plaintiff-Appellant, pp. 34-35.

[4] Order, Annex B, *Ibid*, pp. 37-38.

[5] *Ibid*, p. 38.

[6] *Ibid*, p. 40.

[7] *Ibid*.

[8] Order, Annex C, Brief for Plaintiff-Appellant, p. 45.

[9] *Ibid*.

[10] Art. 268 reads: "Slight illegal detention. - The penalty of reclusion temporal shall be imposed upon any private individual who shall commit the crimes described in the next preceding article without the attendance of any of the circumstances enumerated therein. The same penalty shall be incurred by anyone who shall furnish the place for the perpetration of the crime. If the offender shall voluntarily release the person so kidnapped or detained within three days from the commencement of the detention, without having attained the purpose

intended, and before the institution of criminal proceedings against him, the penalty shall be prision mayor in its minimum and medium periods and a fine not exceeding seven hundred pesos. (As amended by Republic Act No. 18.)" The circumstances referred to are: "1. If the kidnapping or detention shall have lasted more than five days; 2. If it shall have been committed simulating public authority; 3. If any serious physical injuries shall have been inflicted upon the person kidnapped or detained, or if threats to kill him shall have been made; 4. If the person kid-napped or detained shall be a minor, female, or a public officer." (Art. 267, Revised Penal Code.)

[11] Motion to Dismiss Appeal, Record on Appeal, p. 71.

[12] Ibid, p. 73.

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