

ISAAC PERAL BOWLING ALLEY, PETITIONER VS. UNITED EMPLOYEES WELFARE ASSOCIATION AND THE HON. COURT OF INDUSTRIAL RELATIONS, RESPONDENTS.

G.R. No. L-15439. November 29, 1960

Ponente: LABRADOR, J.

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LABRADOR, J.:

This case was filed by the United Employees Welfare Association, respondent herein, with the Court of Industrial Relations on June 23, 1953, to secure the reinstatement of two pinboys, Avelino Morada and Godofredo Castel, alleged to have been illegally dismissed by the Isaac Peral Bowling Alley, petitioner herein, by reason of membership in the respondent association. Petitioner herein, opposed the motion for reinstatement alleging that the termination of the services of the said two pinboys was brought about by just and valid causes and never for union activities as alleged in the motion. After hearing, the Court of Industrial Relations in a decision dated January 19, 1959 ordered that the said pinboys, Morada and Castel, be reinstated with back wages from the time of their suspension or dismissal to November 6, 1958, with deduction for any amount earned by them during the period of said suspension or dismissal. From this decision, which was affirmed by the court en banc, the Isaac Peral Bowling Alley prosecuted the present appeal.

The Court below conducted a hearing and made the following findings—

"After a careful perusal of the evidence submitted by both parties in this case, this Court finds the following facts to be undisputed; that Avelino Morado and Godofredo Castel worked for respondent Isaac Peral Bowling Alley as pinboys from 1951 to June 22, 1953 when their services were terminated by the respondent company; that Antonio Martinez and Pedro Cedano were likewise employed in the respondent company as pinboy and janitor, respectively, with the former still working while the latter resigned recently; that Morado and Castel were the chapter president and auditor, respectively, of petitioner United Employees Welfare Association while still working, and that Martinez and Cedano were non-union members; that on June 18, 1953 at about 4:00 P.M. at the back of the respondent company, an altercation and a near fight occurred between Morado and Castel, on the one hand, and Martinez and Cedano, on the other; that the main cause of the said altercation and controversy was Morado's taking and Infante's using a bicycle of Martinez who resented what they did, then resulting in a hot exchange of words between the parties involved; that an actual physical fight with knives and lead pipe between the two groups did not take place as a consequence, as one group tried to challenge the other to avoid a fight; that immediately after the aforesaid incident, the protagonists were brought to the Manila Police Department (Precinct No- 4) for investigation and were released thereafter; that on June 19, 1953. the parties were investigated by the respondent company who admonished them not to repeat the incident, as the same is not only prejudicial to them but to the respondent business; that on June 22, 1953, the respondent company terminated the services of pinboys Morado and Castel and warned pinboy Martinez and janitor Cedano, both of whom were retained in their services." (pp. 6-8. Annex "C")

* * * * *

"It would, however, seem from the facts given that the immediate and proximate cause of the dismissal on June

22, 1953 of Morado and Castel was the altercation on June 18, 1953 as above described. As to whether the said incident is a just cause for the dismissal of the above-named individuals is a question which should be resolved in the light of the provisions of Republic Act No. 875 which took effect on June 17, 1953. This, it is believed, is more in keeping with the spirit of the Industrial Peace Act and with the protection to labor clause of the Constitution.

"From the evidence on record, this Court believes and so holds that there was obvious discrimination manifested by the respondent between Morado and Castel, on one side, and Martinez and Cedano, on the other. For while the former who were admittedly members of the petitioner union were outrightly separated from the service, the latter who were non-union members were merely given warning." (pp. 10-11, Annex "C")

The first ground raised in this appeal is lack of jurisdiction on the part of the court below. The petition alleges unfair labor practices; consequently, the claim of lack of jurisdiction is absolutely without merit.

As to the other issue, we cannot agree with the court below that the dismissal of the two pinboys was an act of discrimination committed by respondent against the members of the union. As the court itself found, the immediate cause of the altercation between the dismissed pinboys and the other two non-member pinboys was the fact that Morada (union member) took a bicycle of one Martinez (non-union member) and gave it to Infante for his use, and as Martinez and Cedano (non-union members) resented the taking of the bicycle, the altercation arose between them. The altercation was evidently, caused by an act of misappropriation of the bicycle and its use through the acts of Morada. Not because Morada was the chapter president of the union was he justified in appropriating, without the consent of the owner, the bicycle belonging to a non-union member. His act was an abuse of his position as president of the union, and his subsequent act in thereafter claiming that his dismissal was due to discrimination, evinces a predisposition to falsify facts. In a bowling alley, which is maintained for public recreation, customers often bring vehicles for private use which they leave beside the alley. It is absolutely necessary for the success of the business that pinboys employed should respect these customers' vehicles or anybody else's property. This norm of conduct should be observed not only with respect to customer's property but also to other employee's properties whether belonging to the union or not. To permit such a conduct to go unpunished would certainly encourage petty thievery among pinboys and employees and further abuses. Unions are not organized to abuse non-union members or the latter's rights and any act of abuse by any member of a union against a non-union member should not be left unpunished.

For the foregoing considerations we find that the dismissal of the two pinboys, members of the union, was fully justified. The judgment appealed should be, as it is hereby, reversed, with costs against the respondent United , Employees Welfare Association.

Bengzon, Bautista Angela, Gutierrez David, Paredes, and Dizon, JJ., concur.

DISSENTING OPINION

BARRERA, J.:

I dissent.

From the facts found by the Court of Industrial Relations, it is clear to me that the principal, if not the only, reason for the dismissal of the pin-boys Avelino Morada and Godofredo Castel, was their union activities, they being the chapter president and auditor respectively of respondent labor union. Such dismissal could not be the result of the unauthorized use of the bicycle, which the majority qualified as misappropriation, because Castel did not take part therein (it was Morada who took it and Infante, another pin-boy, who used the same) and yet he (Castel) was

dismissed. Neither could the altercation be the cause of the dismissal, because of the four participants, only Morada and Castel were dismissed, while Martinez and Cedano, who were non-members, were retained. Under the circumstances, I agree with the Court of Industrial Relations that there was obvious discrimination against the unionist pin-boys.

Paras, C.J., Padilla, and Reyes, J.B.L., concur.

Judgment reversed.

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