

**NAMARCO EMPLOYEES AND WORKERS ASSOCIATION,
PETITIONERS, VS. THE HONORABLE JUDGE EMILIANO TABIGNE OF
THE COURT OF INDUSTRIAL RELATIONS AND THE NATIONAL
MARKETING CORPORATION, RES...**

G.R. No. L-23294. April 30, 1966

Ponente: REYES, J.B.L., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/cc60e20b38f9/>

REYES, J.B.L., J.:

This is a petition for certiorari with a prayer for a writ of preliminary injunction filed originally with this Court by petitioner Namarco Employees and Workers Association, hereinafter referred to as NEWA for short, to restrain respondent Associate Judge, Hon. Emiliano C. Tabigne, of the Court of Industrial Relations from enforcing his second and temporary restraining order dated August 3, 1964, issued in its CIR Case No. 149-Inj., at the instance of private respondent National Marketing Corporation, hereinafter referred to as NAMARCO. This Court gave due course to the petition and required respondents to answer; however, it did not issue the preliminary injunction prayed for.

As disclosed by the record, the facts are:

On July 8, 1964, herein petitioner NEWA declared a strike against respondent NAMARCO and established picket lines along the premises of the principal office and business establishment of the latter, located at Muelle de la Industria, Binondo, Manila. On July 16, 1964, NAMARCO filed a charge for unfair labor practice against NEWA before the Industrial Court, alleging illegality of the strike staged by the latter. This charge was docketed as CIR Case No. 8-ULP (Annex "B", respondent NAMARCO's answer, record, pp. 59-61). On the same date, NAMARCO also filed, in accordance with Section 9(d) of Republic Act No. 875, a verified urgent ex-parte petition for injunction to restrain and enjoin NEWA and its union members from committing alleged acts of coercion and intimidation in connection with the conduct of said strike. This petition was docketed as CIR Case No. 149-Inj. (Annex "A", NEWA's petition; record, pp. 11-15), for which the corresponding summons was served on NEWA on July 21, 1964 (Annex "B", NEWA's petition; record, p. 16). On July 24, 1964, NEWA answered said petition (Annex "D", NEWA's petition; record, pp. 27-30).

In the meantime, the Prosecution Division of the Industrial Court conducted a preliminary investigation of the unfair labor practice charge, docketed as CIR Case No. 8-ULP; and on July 18, 1964, its acting Chief Prosecutor presented a complaint for unfair labor practice against NEWA before the Industrial Court, which was docketed as CIR Case No. 4257-ULP (Annex "C", NAMARCO's answer; record, pp. 62-66). Summons on this complaint was served on NEWA on August 5, 1964 (Annex "1", petitioner NEWA's memorandum record, p. 83).

After an ex-parte hearing and reception of evidence on the petition for injunction, docketed as CIR Case No. 149-Inj., respondent Judge issued, on July 20, 1964, his first restraining order enjoining NEWA and its union members from committing certain acts specified in said order to be effective only for five (5) days from notice to NEWA, and which order was actually received by the latter on July 22, 1964 (Annex "C", NEWA's petition;

record, pp. 17-26). NEWA did not question the validity or propriety of the issuance of the foregoing restraining order.

On July 30, 1964, NAMARCO filed its second verified urgent ex-parte petition for the issuance of another restraining order, alleging, among other things, that on the fifth day of effectivity of the first restraining order and in open defiance and disobedience of the authority of the Industrial Court, NEWA, its union members and sympathizers, unlawfully and illegally, prevented the enforcement of said order thereby rendering it nugatory and ineffective.

Respondent Judge heard this second petition and allowed NAMARCO to present its evidence ex-parte in support thereof; and on August 3, 1964, he issued the second restraining order, to be effective only for five (5) days from receipt by NEWA, notice of which (order) NEWA received on the same day (Annex "E", NEWA's petition; record, pp. 31-39).

The day following, August 4, 1964, NEWA resorted to this Court on a petition for certiorari questioning the validity of the issuance of the second restraining order.

Two reasons constrain us to deny the present petition for certiorari without considering its merits.

First, it is well settled that only an award, order or decision of the CIR en banc, and not that of any of its Judges, is appealable to this Court (*Broce vs. CIR* 106 Phil., 388; 56 Off. Gaz. 7445). Petitioner, therefore, should have resorted first to the Court of Industrial Relations en banc before coming to this Court. While, under its rules, a motion for reconsideration to the full court requires a period for the opposing party's answer before the motion may be acted upon, there is no law prohibiting or divesting the CIR en banc from exercising in the meantime, and upon proper application, the power to stay or suspend the enforcement of any order, ruling or decision of any of its trial judges, pending resolution of the motion to reconsider, where such stay is imperative to prevent reconsideration from becoming nugatory. This power is implied in the right of the Industrial Court en banc to affirm, alter, modify or reverse the orders, rulings or decisions of any of its trial judges (Sec. 20, Com. Act No. 103, as amended; *Connel Bros. Co. (Phil.) vs. NLU*, G. R. No. L-3631, January 30, 1956; *Luzon Stevedoring Co., Inc. vs. Luzon Marine Department Union*, 101 Phil., 257). On this score, failure to present a motion to reconsider before the CIR en banc is fatal to the instant petition.

Second, the petition should be denied because the dispute has already become moot and academic, it appearing that, on September 4, 1964 (after the case was filed here), the parties entered into a return-to-work agreement (Annex "A", respondent NAMARCO's memorandum; record, pp. 99-100), thereby ending the strike from which these incidents arose.

Wherefore, the present petition for certiorari should be, as it is hereby, dismissed. With costs against petitioner NEWA.

Bengzon, C.J., Bautista Angelo, Concepcion, Barrera, Dizon, Regala, Makalintal, Zaldivar, and Sanchez, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.