

**PROGRESSIVE LABOR ASSOCIATION, BERNARDO O. CALANG,
DOMINADOR RUIZ AND DELFIN N. MERCADER, PETITIONERS, VS.
HON. JUDGE GUILLERMO VILLASOR, CEBU CARTAGE
CORPORATION, ATLAS CONSOL...**

G.R. No. L-26383. April 03, 1968

Ponente: BENGZON, J.P., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d6835b47a9c2/>

BENGZON, J.P., J.:

Petitioner Progressive Labor Association, in behalf of its nearly 4,000 members employed at the respondent Atlas Consolidated Mining & Development Corporation ("AT-LAS" for short) presented to the latter on March 31, 1966, a 19-point demand "for the well being and better terms of employment of the workers x x x." On account, allegedly, of unfair labor practices committed by ATLAS subsequently, a complaint therefor was instituted in the Court of Industrial Relations against the latter for (a) refusal to continue negotiations with petitioner union in connection with its demands; (b) inducing the union directors to oust Atty. Delfin Mercader as its counsel, and (c) refusal to turn over to petitioner the amount of P5.00 checked-off from the respective salaries of union members.

On June 15, 1966, a notice of strike against ATLAS was filed by petitioner union by reason, it is claimed, of the continuing unfair labor practices committed by AT-LAS. This was followed by the staging of a strike and picketing, on July 11, 1966, around the premises of ATLAS in Toledo City, Cebu province.

However, on July 15, 1966, a complaint for injunction and damages was filed in the Court of First Instance of Cebu[1] against petitioner and its officials - co-petitioners herein - by co-respondent Cebu Cartage Corporation, which had a hauling contract with ATLAS and which sought to enjoin the picketing strikers from preventing its trucks and personnel to enter and leave the ATLAS premises. The next day, July 16, 1966, the lower court issued an ex-parte preliminary injunction directed against petitioner and its striking members.

On July 22, 1966, petitioners moved to dissolve the preliminary injunction and to dismiss the civil case on the ground that there was a labor dispute connected with unfair labor practices. The lower court denied both motions. A reconsideration was sought but it failed.

Alleging the foregoing facts, petitioners filed the present special civil action of certiorari with preliminary injunction asking this Court to: (a) dissolve the preliminary injunction issued by the lower court; (b) dismiss Civil Case R-9460; and (c) enjoin in the meantime, the lower court from taking any action in Civil Case R-9460 until further orders and also enjoin the other respondents Mayor and the Police Chief of Toledo City, the Philippine Constabulary Commanders, and their respective men from:

- (1) harassing, manhandling and threatening with arrests the picketing union members;
- (2) escorting the trucks and workers of Cebu Cartage inside the ATLAS premises by breaking thru the picket lines;

- (3) recruiting strike breakers and scabs;
- (4) breaking the picket line and dispersing the picketers, and
- (5) interfering or in any other way obstructing the picketing and concerted action of the strikers.

The petition was given due course and preliminary in-junction was issued by Us 'as prayed for against the lower court and the other co-respondents.

On September 1, 1966, Cebu Cartage filed its answer to the petition claiming that it was not at all involved, directly or indirectly, in the labor dispute between ATLAS and petitioner union and that it secured the preliminary injunction only in order to fulfill its hauling contract with ATLAS since the union picketers blocked the entrance and exits to the said company's premises. The answer also contained an urgent, ex-parte motion for the dissolution or clarification and modification of the Supreme Court in-junction on the ground that the dispute had already ended with the execution on August 27, 1966, of a return-to-work agreement by the newly elected officers of the union.

On September 7, 1966, petitioners sought to declare Private respondents in contempt for having disobeyed the Supreme Court injunction. This Court, by resolution of September 12, 1966, directed (a) petitioner union to answer respondent Cebu Cartage's motion and (b) the private respondents to answer the former's petition to have them declared in contempt of court.

Then came the answers to the petition of the other private respondents. ATLAS claimed that the union already had a new set of officers and that they had executed a return-to-work agreement; that the picketing was not peaceful, and that the strike was economic, not due to unfair labor practices. The remaining respondents Mayor and the Police Chief of Toledo City and the Philippine Constabulary officers joined in asserting that the picketing was not peaceful.

On October 17, 1966, petitioners filed their answer to Cebu Cartage's motion to dissolve or modify and clarify the Supreme Court injunction. The so-alleged election of new union officials, it insisted, was not valid and was merely a scheme of ATLAS. Petitioners also denied having authorized the use of violence in the conduct of the picketing, which generally, was peaceful.

The hearing of the case was set for November 21, 1966. The parties, however, asked and were allowed to file written memoranda.

Subsequently, or on June 13, 1967 to be exact, petitioners filed a "MOTION FOR THE TERMINATION OF THE PRELIMINARY INJUNCTION AND FOR THE CANCELLATION OF THE BOND." In support thereof, it was asserted:[2]

"1. That the strike and picketing staged by the petitioners against the Respondent At-las Consolidated Mining & Development Corporation formally ceased and ended on October 4, 1966 when the striking petitioners formally offered to return to work, stop their strike and lifted their pickets taking away all their placards and picket lines. x x x

"2. That the writ of preliminary injunction issued in this case on August 11, 1966[3] by this Honorable Supreme Court was for the purpose of enjoining the respondents from interfering, manhandling or in any way interfering with said strike and picketing, such that upon the termination and complete cessation of said strike and picketing (as they did since October 4, 1966 the purpose and reason for the existence of said preliminary injunction have also terminated and ceased." (Stressed for emphasis)

Required to comment, respondents all manifested no objection to the foregoing motion. On August 18, 1967, We

accordingly granted petitioners' motion asking for the lifting of this Court's injunction issued on August 23, 1966.

This development has perforce rendered the present case moot. The petitioners here mainly assail, the ex-parte preliminary injunction issued by the lower court on the principal ground that it was issued in a labor dispute without following the procedural requirements of Republic Act 875. Said injunction, however, has already lost its purpose and effectivity for what it seeks to restrain, i.e., the strike, picketing and all the concomitant acts thereof, are no longer existent as admitted by the very parties against which said injunction is directed and which sought this remedy against it. We see no necessity in further de-claring void and ineffective what, of itself, is already ineffective.

The main case is also assailed for lack of cause of action. This is no jurisdictional defect. And no doubt the lower court has jurisdiction over the main case insofar as the complaint seeks for damages.[4] While there is also an allegation in the petition that the labor dispute is connected with unfair labor practices, such allegation, without supporting proof, is insufficient to show that the Court of First Instance has no jurisdiction.[5]

WHEREFORE, the petition is hereby dismissed. Costs against petitioners.

SO ORDERED.

Reyes, J.B.L., (Acting C.J.), Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Angeles, and Fernando, JJ., concur.

[1] Cebu Cartage Corp. v. Calang, et al., Civil Case No. R 9460.

[2] Rollo, p. 227.

[3] Should be August 23, 1966, when the writ was issued after petitioners posted the required bond.

[4] Erlanger & Galinger v. Erlanger & Galinger Employees Ass'n., 104 Phil. 17; Cueto v. Hon. Ortiz, L-11555.

[5] PAFLU v. Hon. Marcos, L-26213, March 27, 1968.

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.