

CASINO ESPAÑOL DE MANILA, PETITIONER, VS. THE HONORABLE COURT OF INDUSTRIAL RELATIONS AND MAMERTO FERIA, RESPONDENTS.

G.R. No. L-18159. December 17, 1966

Ponente: BARRERA, J.

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BARRERA, J.:

Respondent Mamerto Feria was employed as a cook by herein petitioner Casino Español de Manila from February 2, 1952 up to November 10, 1958 when he was suspended and subsequently dismissed by the petitioner. Whereupon on July 8, 1959, Feria filed with the Court of Industrial Relations a petition praying for his reinstatement with back wages from the time of his dismissal; for the payment of unpaid services rendered on Sundays and legal holidays; for payment of differential pay for services rendered at night in the sum to be determined by the Court; plus attorney's fees. Herein petitioner (respondent below), in its answer, denied the factual basis of Feria's claims and specially contended that the CIR had no jurisdiction to try the case against it on the ground that it is a non-stock corporation organized, not for profit and gain but to promote a closer relationship among the Spanish residents in these Islands and to foster the development of their interests; to afford recreation and entertainment to the members thereof, and to assist the latter in any manner allowable under its Articles of Incorporation.

After the trial on the merits, the respondent court rendered a decision ordering herein petitioner to pay to Feria an additional compensation of 25% for the services rendered on Sundays and legal holidays and for service rendered at night from February 2, 1952 up to November 10, 1958. The respondent court did not, however, pass upon the prayer for reinstatement. After the denial of the motion for reconsideration, the petitioner appealed to this Court by certiorari upon the sole issue of the alleged lack of jurisdiction of the CIR Co take cognizance of the case. It is already a settled matter which need not be further discussed—and the petitioner does not dispute—that the Court of Industrial Relations has jurisdiction, among others, over cases involving hours of employment under the 8-Hour-labor law and claims arising thereunder by an employee or an ex-employee seeking reinstatement (*Paflu v. Tan*, L-9115, August 31, 1956; *National Shipyard & Steel Corporation v. Almin, et al.*, L-9055, November 28, 1958; *Prisco v. CIR*, L-13806, May 23, 1960). What, in effect, is the point raised in this proceeding is that there is no cause of action against petitioner because the law (Com. Act 444) is not applicable to it, it not being engaged, it is contended, in any industry or occupation mentioned in Section 2 of the law.

The provisions of Commonwealth Act 444, pertinent to the present controversy, are Sections 2 and 4 thereof which read respectively as follows:

"x x x x

"Sec. 2. This Act shall apply to all persons employed in any industry or occupation, whether public or private, with the exception of farm laborers, laborers who prefer to be paid on piece work basis, domestic servants and persons in the personal service of another and members of the family of the employer working for him.

"Sec. 4. No person, firm, or corporation, business establishment or place or center of labor shall compel an employee or laborer to work during Sunday's and legal holidays, unless he is paid an additional sum of at least twenty-five per centum of his regular remuneration: PROVIDED HOWEVER, That this prohibition shall not apply to public utilities performing some public service such as supplying gas, electricity, power, water, or providing means of transportation or communication, xxx x." (Italics supplied).

It is to be noted that Section 2 refers to the "persons employed", that is, the employee or the person who performs the labor. Section 4 refers to the employer, that is the person or entity that engages or employs the laborer. Therefore, the phrase contained in Section 2—"employed in any industry or occupation"—does not refer to the employer but to the employee, that is, the person who works either in an industry or in an occupation.

Upon the other hand, Section 4 refers to "person, firm or corporation, business establishment or place of center of labor." This section does not require that the (employee)"or the one giving the work or requiring the labor, should engage in an industry. It is enough that he be the one in whose favor labor or work is rendered.

The respondent Feria in the present case is a person included in Section 2, because he is employed in his occupation as cook and, therefore, Section: 2 is applicable to and protects him. On the other hand, petitioner Casino Espartol de Manila is the "place of labor" or the place where respondent Feria renders his labor in pursuance of his occupation as cook. Clearly, petitioner is within the purview of Section 4. Note that this section does not limit the "person, firm, Jor corporation or place or center of labor" only to business enterprises established for gain or profit. The law, both in its letter and in its spirit and purpose, does not make such a distinction, and no justification is suggested for us to make one. Under the circumstances, it seems clear that herein respondent Feria, who is covered by Section 2 of the 8-Hour-Labor Law, has a cause of action against the petitioner which is not exempt under the provisions of Section 4 thereof.

It is claimed, however, that petitioner Casino Español de Manila, being a non-stock corporation not established for profit or gain, the Court of Industrial Relations has no jurisdiction to entertain the action brought against it by respondent Feria, citing the cases of U.S.T. Hospital Employees Association v. Sto. Tomas University Hospital (L-6988, March 24, 1954); San Beda College v. Court of Industrial Relations (L-7649, Oct. 29, 1955); Quezon Institute v. Velasco and Parazo (L-1742 & L-7743, Nov. 23, 1955); Marcelo v. Philippine National Red Cross (L-9448, May 28, 1957); Boy Scouts of the Philippines v. Araos (L-10091, Jan. 29, 1958); and University of San Agustin v. Court of Industrial Relations (L-12222, May 28, 1958). Whatever rulings or statement may have been rendered or said in the aforecited cases, however, can not be invoked herein or made applicable to the case at bar.

It must be remembered that, as previously declared, the issue involved in this proceeding is whether there exists a cause of action against the petitioners, in connection with the demands of respondent Feria for additional compensation under Commonwealth Act 444.

The U.S.T. Hospital Employees case, supra, was decided on the question of jurisdiction of the Court of Industrial Relations over the dispute presented before it, taking into account the nature of the petitioners' (workers) employment in the light of the definition given in Section 39-(d) of Republic Act 772 (Workmen's Compensation Act). The jurisdiction of the Industrial Court under Commonwealth Act 103, was again the issue resolved in the case of San Beda College vs. CIR, supra. In both instances, the character or nature of the occupation to which the employers were engaged, i.e., caring for the sick and maintaining or providing education for young men, respectively, were of considerable weight. The elevated and lofty purpose for which the Philippine National Red Cross was established and dedicated was also the main reason that moved this Court into holding the said institution exempted from liability, in the Marcelo case. In the Boy Scouts of the Philippines and University of San Agustin cases, aside from being litigated on a different ground (unfair labor practice), the fact that their organization and maintenance are for the education and instruction of, the encouragement, development and

promotion of character and patriotism in, the youth of the land, underscored and rationale of those decisions.

The same thing can not be said of herein petitioner. True it may be that it is a non-stock corporation not organized for profit or gain, yet it can not be contended that petitioner's operations, aimed at providing service, comfort and benefit only to its members and their guests, give to such undertaking the benevolent or lofty nature, characteristic of those treated in the cited cases. And it can not be doubted that upon dissolution or termination of the existence of this club, whatever profits it may have accumulated will redound to the benefit of its members.

IN VIEW OF THE FOREGOING, the decision appealed from is hereby affirmed, without costs.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Regala, Bengzon, J.P., Zaldivar and Sanchez, JJ., concur.

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